

**[DISCUSSION DRAFT]**

OCTOBER 7, 2008

110TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To **[to be supplied]**

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IN THE HOUSE OF REPRESENTATIVES

Mr. BOUCHER (for himself and Mr. DINGELL) introduced the following bill;  
which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To **[to be supplied]**

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “\_\_\_\_\_ Act of 2008”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—CAP AND TRADE PROGRAM

Sec. 101. Amendment of Clean Air Act.

“TITLE VII—GREENHOUSE GAS CAP AND TRADE PROGRAM

“Sec. 700. Definitions.

“PART A—DESIGNATION AND REGISTRATION OF GREENHOUSE GASES

“Sec. 701. Designation of greenhouse gases.

“Sec. 702. Carbon dioxide equivalent value of greenhouse gases.

“Sec. 703. Greenhouse gas registry.

“PART B—CAP AND TRADE PROGRAM RULES

“Sec. 711. Emission allowances.

“Sec. 712. Compliance obligation.

“Sec. 713. Penalty for noncompliance.

“Sec. 714. Trading.

“Sec. 715. Banking and borrowing.

“Sec. 716. Strategic reserve.

“Sec. 717. Permits.

“PART C—DISTRIBUTION OF EMISSION ALLOWANCES

“Sec. 721. Allocations **[OPTION A]**.

“Sec. 721. Allocations **[OPTION B]**.

“Sec. 721. Allocations **[OPTION C]**.

“Sec. 721. Allocations **[OPTION D]**.

“Sec. 722. Covered sectors.

“Sec. 723. Energy efficiency.

“Sec. 724. Clean technology deployment.

“Sec. 725. Early action credit.

“Sec. 726. Consumers and deficit reduction.

“Sec. 727. Green jobs training.

“Sec. 728. Supplemental greenhouse gas reductions.

“Sec. 729. Adaptation.

“Sec. 730. Auctions.

“Sec. 731. Auction proceeds.

“Sec. 732. Auctioning allowances for other entities.

“Sec. 733. Relation to State law.

“PART D—DOMESTIC OFFSETS PROGRAM

“Sec. 741. Establishment of domestic offsets program.

“Sec. 742. Eligible project types.

“Sec. 743. Requirements for domestic offset projects.

“Sec. 744. Project initiation and approval.

“Sec. 745. Verification and issuance of offset credits.

“Sec. 746. Audits.

“Sec. 747. Early offset projects.

“Sec. 748. Environmental considerations.

“Sec. 749. Ownership and transfer of offset credits.

“Sec. 750. Accounting for reversals.

“PART E—INTERNATIONAL EMISSION ALLOWANCES AND OFFSET CREDITS

“Sec. 761. International emission allowances.

“Sec. 762. International offset credits.

“Sec. 763. Retirement.

“Sec. 764. Offset credits for international forest carbon activities.

“PART F—SUPPLEMENTAL GREENHOUSE GAS REDUCTION PROGRAM

- “Sec. 771. Definitions.
- “Sec. 772. Establishment of supplemental greenhouse gas reduction program.
- “Sec. 773. Program activities.

“PART G—INTERNATIONAL RESERVE ALLOWANCE PROGRAM

- “Sec. 781. Definitions.
  - “Sec. 782. Purposes.
  - “Sec. 783. International negotiations.
  - “Sec. 784. International Climate Change Commission.
  - “Sec. 785. Determinations on comparable action.
  - “Sec. 786. International reserve allowance program.
  - “Sec. 787. Adjustment of international reserve allowance requirements.
- Sec. 102. Conforming amendments.

TITLE II—CARBON MARKET OVERSIGHT

- Sec. 201. Amendment of Federal Power Act.

“PART IV—REGULATION OF CARBON MARKETS

- “Sec. 401. Purposes.
  - “Sec. 402. Definitions.
  - “Sec. 403. Office of Carbon Market Oversight; jurisdiction.
  - “Sec. 404. Regulation of carbon trading.
  - “Sec. 405. Registration of carbon trading facilities, brokers, dealers, and carbon clearing organizations.
  - “Sec. 406. Administrative enforcement.
  - “Sec. 407. Trading suspensions and emergency authority.
  - “Sec. 408. Publication of information.
  - “Sec. 409. Market reports.
- Sec. 202. Conforming amendments.

TITLE III—GREENHOUSE GAS STANDARDS

- Sec. 301. Amendment of Clean Air Act.

“TITLE VIII—GREENHOUSE GAS STANDARDS

- “Sec. 801. Definitions.

“PART A—STANDARDS

- “Sec. 811. Standards of performance.
- “Sec. 812. Carbon capture standards for new coal-fired power plants.
- “Sec. 813. Criteria pollutants.
- “Sec. 814. Hazardous air pollutants.
- “Sec. 815. New source review and title V permits.
- “Sec. 816. Motor vehicle emission standards.
- “Sec. 817. Fuel standards.
- “Sec. 818. Aircraft emission standards.

“PART B—MISCELLANEOUS

- “Sec. 831. Climate change review and recommendations.
- “Sec. 832. Certifying geologic sequestration sites.

TITLE IV—HYDROFLUOROCARBONS

- Sec. 401. HFC regulation.
- Sec. 402. Excise tax on hydrofluorocarbons.

TITLE V—ENERGY EFFICIENCY

Subtitle A—General Energy Efficiency Programs

- Sec. 501. State Energy Efficiency Development (SEED) Funds.
- Sec. 502. Public information.

Subtitle B—Building Energy Efficiency Programs

- Sec. 511. Energy Star program for residential building standards.
- Sec. 512. Energy Star building label program.
- Sec. 513. Residential assessment program.
- Sec. 514. Real estate industry coordination.
- Sec. 515. Greater energy efficiency in building codes.

Subtitle C—Energy Star Appliance Program Upgrades

- Sec. 521. Individual appliance standards achieved by consensus **【to be supplied】**.
- Sec. 522. Technical corrections of the Energy Independence and Security Act of 2007 **【to be supplied】**.

Subtitle D—Transportation Energy Efficiency Programs

- Sec. 531. Freight sector efficiency technologies and strategies program.
- Sec. 532. High-efficiency vehicles.
- Sec. 533. Vehicle recycling.

Subtitle E—Industrial Energy Efficiency Programs

- Sec. 541. Industrial plant energy efficiency standards.
- Sec. 542. Electric and thermal energy efficiency award programs.

Subtitle F—State Efficiency Programs

- Sec. 551. State electricity efficiency program.
- Sec. 552. State and local transportation energy efficiency.
- Sec. 553. State recycling programs.

TITLE VI—ADAPTATION

Subtitle A—National Climate Change Adaptation Program

- Sec. 601. Definitions.
- Sec. 602. National Climate Change Adaptation Council.
- Sec. 603. National Climate Change Adaptation Program.
- Sec. 604. National Climate Change Vulnerability Assessments.
- Sec. 605. Climate change adaptation services.
- Sec. 606. Federal agency climate change adaptation plans.
- Sec. 607. Federal funding for State, local, and tribal adaptation projects.

Subtitle B—Natural Resource Adaptation

- Sec. 621. Purposes.
- Sec. 622. Natural resources climate change adaptation policy.

- Sec. 623. Definitions.
- Sec. 624. Council on Environmental Quality.
- Sec. 625. Natural Resources Climate Change Adaptation Panel.
- Sec. 626. Natural Resources Climate Change Adaptation Strategy.
- Sec. 627. Natural Resources Climate Change Adaptation Science and Information Program.
- Sec. 628. Federal natural resource agency adaptation plans.
- Sec. 629. State natural resources adaptation plans.
- Sec. 630. Natural Resources Climate Change Adaptation Fund.

TITLE VII—LOW INCOME CONSUMER CLIMATE CHANGE REBATES

- Sec. 701. Low income consumer climate change rebates.
- Sec. 702. Climate tax rebate through earned income credit.

TITLE VIII—MISCELLANEOUS

- Sec. 801. Study of legal framework for geologic sequestration sites.
- Sec. 802. Black carbon.

1 **SEC. 2. DEFINITIONS.**

2       In this Act, terms defined in section 700 of the Clean  
3 Air Act shall have the meaning given those term in that  
4 Act.

5                   **TITLE I—CAP AND TRADE**  
6                   **PROGRAM**

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

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

11                   **“TITLE VII—GREENHOUSE GAS**  
12                   **CAP AND TRADE PROGRAM**

13 **“SEC. 700. DEFINITIONS.**

14       “In this title:

15                   “(1) **ADDITIONAL.**—The term ‘additional’,  
16 when used with respect to reductions or avoidance of  
17 greenhouse gas emissions, or to sequestration of

1 greenhouse gases, means reductions, avoidance, or  
2 sequestration that result in a lower level of net  
3 greenhouse gas emissions or atmospheric concentra-  
4 tions than the baseline.

5 “(2) ADDITIONALITY.—The term ‘additionality’  
6 means the extent to which reductions or avoidance  
7 of greenhouse gas emissions, or sequestration of  
8 greenhouse gases, are additional.

9 “(3) BASELINE.—The term ‘baseline’ means  
10 the level of greenhouse gas emissions or a carbon  
11 stock scenario that would occur with respect to a  
12 project or activity in the absence of an offset credit.

13 “(4) BIOLOGICAL SEQUESTRATION; BIO-  
14 LOGICALLY SEQUESTERED.—The terms ‘biological  
15 sequestration’ and ‘biologically sequestered’ mean  
16 the removal of greenhouse gases from the atmos-  
17 phere by terrestrial biological means, such as by  
18 growing plants, and the storage of those greenhouse  
19 gases in plants or soils.

20 “(5) BIOMASS.—The term ‘biomass’ means any  
21 lignin waste material that is segregated from other  
22 waste materials and is determined to be nonhaz-  
23 ardous by the Administrator and any solid, nonhaz-  
24 ardous, cellulosic material that is derived from—

1           “(A) any of the following forest-related re-  
2 sources: mill residues, precommercial thinnings,  
3 slash, and brush, or nonmerchantable material;

4           “(B) solid wood waste materials, including  
5 waste pallets, crates, dunnage, manufacturing  
6 and construction wood wastes (other than pres-  
7 sure-treated, chemically treated, or painted  
8 wood wastes), and landscape or right-of-way  
9 tree trimmings, but not including municipal  
10 solid waste (garbage), gas derived from the bio-  
11 degradation of solid waste, or paper that is  
12 commonly recycled;

13           “(C) agriculture wastes, including orchard  
14 tree crops, vineyard, grain, legumes, sugar, and  
15 other crop byproducts or residues, and livestock  
16 waste nutrients; or

17           “(D) a plant that is grown exclusively as  
18 a fuel for the production of electricity.

19           “(6) CARBON STOCK.—The term ‘carbon stock’  
20 means the quantity of carbon contained in a biologi-  
21 cal reservoir or system which has the capacity to ac-  
22 cumulate or release carbon.

23           “(7) CERTIFIED GEOLOGIC SEQUESTRATION  
24 SITE.—The term ‘certified geologic sequestration

1 site' means a geologic sequestration site that has  
2 been certified under section 832.

3 “(8) COVERED ENTITY.—The term ‘covered en-  
4 tity’ means each of the following:

5 “(A) Any electricity source.

6 “(B) Any stationary source that produces,  
7 and any entity that imports, for sale or dis-  
8 tribution in interstate commerce in 2008 or any  
9 subsequent year, petroleum-based or coal-based  
10 liquid fuel, the combustion of which will emit  
11 more than 25,000 tons of carbon dioxide equiv-  
12 alent, as determined by the Administrator.

13 “(C) Any stationary source that produces,  
14 and any entity that imports, for sale or dis-  
15 tribution in interstate commerce in 2008 or any  
16 subsequent year more than 25,000 tons of car-  
17 bon dioxide equivalent of—

18 “(i) fossil fuel-based carbon dioxide;

19 “(ii) nitrous oxide;

20 “(iii) perfluorocarbons;

21 “(iv) sulfur hexafluoride;

22 “(v) nitrogen trifluoride;

23 “(vi) any other fluorinated gas that is  
24 a greenhouse gas, as designated by the Ad-  
25 ministrator under section 701(b) or (c); or



1           “(vii) any combination of greenhouse  
2           gases described in clauses (i) through (vi).

3           “(D) Any geologic sequestration site.

4           “(E) Any stationary source in the fol-  
5           lowing industrial sectors:

6           “(i) Adipic acid production.

7           “(ii) Primary aluminum production.

8           “(iii) Ammonia manufacturing.

9           “(iv) Cement production, excluding  
10          grinding-only operations.

11          “(v) Hydrochlorofluorocarbon produc-  
12          tion.

13          “(vi) Lime manufacturing.

14          “(vii) Nitric acid production.

15          “(viii) Petroleum refining.

16          “(ix) Phosphoric acid production.

17          “(x) Silicon carbide production.

18          “(xi) Soda ash production.

19          “(xii) Titanium dioxide production.

20          “(F) Any stationary source in the petro-  
21          chemical sector that, in 2008 or any subsequent  
22          year—

23                 “(i) manufactures acrylonitrile, carbon  
24                 black, ethylene, ethylene dichloride, ethyl-  
25                 ene oxide, or methanol; or

1           “(ii) manufactures a petrochemical  
2           product not manufactured as of the date of  
3           enactment of this title, if the Adminis-  
4           trator determines that manufacturing that  
5           product results in annual process emissions  
6           of 25,000 or more tons of carbon dioxide  
7           equivalent.

8           “(G) Any stationary source that—

9           “(i) is in one of the following indus-  
10          trial sectors: ethanol production; ferroalloy  
11          production; food processing; glass produc-  
12          tion; hydrogen production; iron and steel  
13          production; lead production; kraft pulp and  
14          paper manufacturing; and zinc production;  
15          and

16          “(ii) has emitted 25,000 or more tons  
17          of carbon dioxide equivalent in 2008 or  
18          any subsequent year.

19          “(H) Any fossil fuel-fired combustion de-  
20          vice or grouping of such devices that—

21          “(i) is all or part of an industrial  
22          source not specified in subparagraph (E),  
23          (F), or (G); and

1                   “(ii) has emitted 25,000 or more tons  
2                   of carbon dioxide equivalent in 2008 or  
3                   any subsequent year.

4                   “(I) Any local distribution company that in  
5                   2008 or any subsequent year delivers 460,000  
6                   cubic feet or more of natural gas to commercial  
7                   and residential customers.

8                   “(9) CREDITING PERIOD.—The term ‘crediting  
9                   period’ means the period with respect to which an  
10                  offset project is eligible to earn offset credits under  
11                  part D.

12                  “(10) DESIGNATED REPRESENTATIVE.—The  
13                  term ‘designated representative’ means, with respect  
14                  to a covered entity or a reporting entity, an indi-  
15                  vidual authorized, through a certificate of represen-  
16                  tation submitted to the Administrator, by the owners  
17                  and operators to represent the owners and operators  
18                  in all matters pertaining to the this title (including,  
19                  with respect to a covered entity, the holding, trans-  
20                  fer, or disposition of emission allowances), and to  
21                  make all submissions to the Administrator under  
22                  this title.

23                  “(11) ELECTRICITY SOURCE.—The term ‘elec-  
24                  tricity source’ means a stationary source that in-  
25                  cludes one or more utility units.

1           “(12) EMISSION.—The term ‘emission’ means  
2           the release of a greenhouse gas into the ambient air.  
3           Such term does not include gases that are captured  
4           and geologically sequestered, except to the extent  
5           that they are later released into the atmosphere, in  
6           which case they shall be subject to section 712(a)(4).

7           “(13) EMISSION ALLOWANCE.—The term ‘emis-  
8           sion allowance’ means a limited authorization to  
9           emit 1 ton of carbon dioxide equivalent of a green-  
10          house gas in accordance with this title.

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

14          “(15) FOSSIL FUEL.—The term ‘fossil fuel’  
15          means natural gas, petroleum, coal, or any form of  
16          solid, liquid, or gaseous fuel derived from such mate-  
17          rial, including consumer products that are derived  
18          from such materials and are combusted.

19          “(16) FOSSIL FUEL-FIRED.—The term ‘fossil  
20          fuel-fired’ means powered by combustion of fossil  
21          fuel, alone or in combination with any other fuel,  
22          independent of the percentage of fossil fuel con-  
23          sumed.

24          “(17) GEOLOGIC SEQUESTRATION; GEOLOGI-  
25          CALLY SEQUESTERED.—The terms ‘geologic seques-

1       tration’ and ‘geologically sequestered’ mean the iso-  
2       lation of greenhouse gases in geologic formations at  
3       certified geologic sequestration sites.

4           “(18) GREENHOUSE GAS.—The term ‘green-  
5       house gas’ means any gas described in section  
6       701(a) or designated under section 701(b) or (c), ex-  
7       cept that no gas or chemical compound regulated  
8       under section 604 or 605 shall be considered a  
9       greenhouse gas for purposes of this title or title  
10      VIII.

11          “(19) HOLD.—The term ‘hold’ means to have  
12      in the appropriate account in the allowance tracking  
13      system, or submit to the Administrator for recording  
14      in such account.

15          “(20) INDUSTRIAL SOURCE.—The term ‘indus-  
16      trial source’ means any stationary source that—

17              “(A) is not described in paragraph (8)(A);  
18      and

19              “(B) is in the manufacturing sector (as de-  
20      fined in North American Industrial Classifica-  
21      tion System codes 31, 32, and 33).

22          “(21) INSTITUTION OF HIGHER EDUCATION.—  
23      The term ‘institution of higher education’ has the  
24      meaning given that term in section 101(a) of the  
25      Higher Education Act of 1965 (20 U.S.C. 1001(a)).

1           “(22) INTERNATIONAL EMISSION ALLOW-  
2 ANCE.—The term ‘international emission allowance’  
3 means a tradable authorization to emit 1 ton of car-  
4 bon dioxide equivalent of greenhouse gas that is  
5 issued by a national or supranational foreign govern-  
6 ment pursuant to a qualifying international program  
7 designated by the Administrator pursuant to section  
8 761(a).

9           “(23) INTERNATIONAL FOREST CARBON ACTIVI-  
10 TIES.—The term ‘international forest carbon activi-  
11 ties’ means national or subnational activities in  
12 countries other than the United States that are di-  
13 rected at—

14                   “(A) reducing greenhouse gas emissions  
15 from deforestation or forest degradation; or

16                   “(B) increasing sequestration of carbon  
17 through—

18                           “(i) afforestation or reforestation of  
19 acreage not forested as of January 1,  
20 2008;

21                           “(ii) restoration of degraded land or  
22 forest; or

23                           “(iii) improved forest management.

1           “(24) INTERNATIONAL OFFSET CREDIT.—The  
2 term ‘international offset credit’ means an offset  
3 credit approved by the Administrator under part E.

4           “(25) LEAKAGE.—The term ‘leakage’ means a  
5 significant increase in greenhouse gas emissions, or  
6 significant decrease in sequestration, which is caused  
7 by an offset project and occurs outside the bound-  
8 aries of the offset project.

9           “(26) LOCAL DISTRIBUTION COMPANY.—The  
10 term ‘local distribution company’ has the meaning  
11 given that term in section 2(17) of the Natural Gas  
12 Policy Act of 1978 (15 U.S.C. 3301(17)).

13           “(27) NATIONAL DEFORESTATION BASELINE.—  
14 The term ‘national deforestation baseline’ means a  
15 baseline developed pursuant to section 764(c).

16           “(28) OFFSET CREDIT.—The term ‘offset cred-  
17 it’ means a credit issued under part D.

18           “(29) OFFSET PROJECT.—The term ‘offset  
19 project’ means a project that reduces or avoids  
20 greenhouse gas emissions, or sequesters greenhouse  
21 gases, and for which offset credits are issued under  
22 part D.

23           “(30) OFFSET PROJECT REPRESENTATIVE.—  
24 The term ‘offset project representative’ means the  
25 individual or entity designated as the offset project

1 representative in a verification report for an offset  
2 project submitted under section 745(b).

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

12 “(32) REVERSAL.—The term ‘reversal’ means  
13 an intentional or unintentional loss of sequestered  
14 greenhouse gases to the atmosphere.

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

20 “(34) STATE.—The term ‘State’ means the sev-  
21 eral States, the District of Columbia, the Common-  
22 wealth of Puerto Rico, the United States Virgin Is-  
23 lands, Guam, American Samoa, the Commonwealth  
24 of the Northern Mariana Islands, and any other



1 commonwealth, territory, or possession of the United  
2 States.

3 “(35) STATIONARY SOURCE.—The term ‘sta-  
4 tionary source’ means any integrated operation com-  
5 prising any plant, building, structure, or stationary  
6 equipment, including support buildings and equip-  
7 ment, that is located within one or more contiguous  
8 or adjacent properties, is under common control of  
9 the same person or persons, and emits or may emit  
10 a greenhouse gas.

11 “(36) STRATEGIC RESERVE ALLOWANCE.—The  
12 term ‘strategic reserve allowance’ means an emission  
13 allowance reserved for, transferred to, or deposited  
14 in the strategic reserve under section 716.

15 “(37) TON OF CARBON DIOXIDE EQUIVA-  
16 LENT.—The term ‘ton of carbon dioxide equivalent’  
17 has the meaning specified in section 702(a) or deter-  
18 mined by the Administrator under section 701 or  
19 702.

20 “(38) UTILITY UNIT.—The term ‘utility unit’  
21 means—

22 “(A) a fossil fuel-fired combustion device  
23 that serves a generator that produces electricity  
24 for sale; or



1 “(4) Sulfur hexafluoride.

2 “(5) Hydrofluorocarbons emitted as a byprod-  
3 uct.

4 “(6) A perfluorocarbon.

5 “(7) Nitrogen trifluoride.

6 “(8) Any other anthropogenic gas designated as  
7 a greenhouse gas by the Administrator under this  
8 section.

9 “(b) DETERMINATION ON ADMINISTRATOR’S INITIA-  
10 TIVE.—The Administrator shall, by rule—

11 “(1) designate another anthropogenic gas as a  
12 greenhouse gas if the Administrator determines that  
13 1 metric ton of the gas makes the same or greater  
14 contribution to global warming over 100 years as 1  
15 metric ton of carbon dioxide;

16 “(2) determine the carbon dioxide equivalent  
17 value for each gas designated as a greenhouse gas  
18 under paragraph (1);

19 “(3) specify the compliance obligations of cov-  
20 ered entities under section 712(a) for each gas des-  
21 ignated as a greenhouse gas under paragraph (1);  
22 and

23 “(4) determine whether to regulate under sec-  
24 tion 619 any gas designated as a greenhouse gas  
25 under paragraph (1).

1       “(c) PETITIONS TO DESIGNATE A GREENHOUSE  
2 GAS.—

3               “(1) IN GENERAL.—Any person may petition  
4 the Administrator to designate an anthropogenic gas  
5 as a greenhouse gas and take the actions described  
6 in subsection (b)(2), (3), and (4) with respect to  
7 such gas. Such petition shall include supporting  
8 data.

9               “(2) DETERMINATION.—Within one year after  
10 receipt of a petition under paragraph (1), the Ad-  
11 ministrator shall either—

12                       “(A) deny the petition; or

13                       “(B) designate the gas as a greenhouse  
14 gas and take the actions described in subsection  
15 (b)(2), (3), and (4) with respect to such gas.

16               “(3) ACQUISITION OF INFORMATION.—If the  
17 Administrator determines that supporting data in a  
18 petition is insufficient to make a determination  
19 under paragraph (2), the Administrator shall use  
20 any authority available to the Administrator, under  
21 any law administered by the Administrator, to ac-  
22 quire necessary and appropriate existing peer-re-  
23 viewed data or other relevant existing information.

1 **“SEC. 702. CARBON DIOXIDE EQUIVALENT VALUE OF**  
 2 **GREENHOUSE GASES.**

3 “(a) INITIAL VALUE.—Except as provided by the Ad-  
 4 ministrator under this section or section 701, the carbon  
 5 dioxide equivalent value of greenhouse gases for purposes  
 6 of this Act shall be as follows:

**“CARBON DIOXIDE EQUIVALENT OF 1 TON OF LISTED  
 GREENHOUSE GASES**

<b>Greenhouse gas (1 metric ton)</b>	<b>Carbon dioxide equivalent (metric tons)</b>
Carbon dioxide	1
Methane	25
Nitrous oxide	298
HFC-23	14,800
HFC-125	3,500
HFC-134a	1,430
HFC-143a	4,470
HFC-152a	124
HFC-227ea	3,220
HFC-236fa	9,810
HFC-4310mcc	1,640
CF <sub>4</sub>	7,390
C <sub>2</sub> F <sub>6</sub>	12,200
C <sub>4</sub> F <sub>10</sub>	8,860
C <sub>6</sub> F <sub>14</sub>	9,300
SF <sub>6</sub>	22,800

7 “(b) PERIODIC REVIEW.—

1           “(1) Not later than February 1, 2017, and (ex-  
2           cept as provided in paragraph (3)) not less than  
3           every 5 years thereafter, the Administrator shall—

4                   “(A) review and, if appropriate, revise the  
5                   carbon dioxide equivalent values established  
6                   under subsection (a), based on a determination  
7                   of the number of metric tons of carbon dioxide  
8                   that makes the same contribution to global  
9                   warming over 100 years as 1 metric ton of each  
10                  greenhouse gas; and

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

13           “(2) A revised determination published in the  
14           Federal Register under paragraph (1)(B) shall take  
15           effect for greenhouse gas emissions starting on Jan-  
16           uary 1 of the first calendar year starting at least 9  
17           months after the date on which the revised deter-  
18           mination was published.

19           “(3) The Administrator may decrease the fre-  
20           quency of review and revision under paragraph (1)  
21           if the Administrator determines that such decrease  
22           is appropriate in order to synchronize such review  
23           and revision with any similar review process carried  
24           out pursuant to the United Nations Framework  
25           Convention on Climate Change, done at New York

1 on May 9, 1992, or to an agreement negotiated  
2 under that convention, except that in no event shall  
3 the Administrator carry out such review and revision  
4 any less frequently than every 10 years.

5 “(c) METHODOLOGY.—In setting carbon dioxide  
6 equivalent values, for purposes of this section or section  
7 701, the Administrator shall take into account publica-  
8 tions by the Intergovernmental Panel on Climate Change  
9 or a successor organization under the United Nations.

10 **“SEC. 703. GREENHOUSE GAS REGISTRY.**

11 “(a) DEFINITIONS.—For purposes of this section:

12 “(1) CLIMATE REGISTRY.—The term ‘Climate  
13 Registry’ means the greenhouse gas emissions reg-  
14 istry jointly established and managed by more than  
15 40 States and Indian tribes in 2007 to collect high-  
16 quality greenhouse gas emission data from facilities,  
17 corporations, and other organizations to support var-  
18 ious greenhouse gas emission reporting and reduc-  
19 tion policies for the member States and Indian  
20 tribes.

21 “(2) REPORTING ENTITY.—The term ‘reporting  
22 entity’ means—

23 “(A) a covered entity;

24 “(B) any other entity that emits a green-  
25 house gas, if the Administrator determines that

1 reporting under this section by such entity will  
2 help achieve the purposes of this Act; or

3 “(C) any vehicle fleet with emissions of  
4 more than 25,000 tons of carbon dioxide equiv-  
5 alent on an annual basis, if the Administrator  
6 determines that the inclusion of such fleet will  
7 help achieve the purposes of this Act.

8 “(b) REGULATIONS.—

9 “(1) IN GENERAL.—Not later than 1 year after  
10 the date of enactment of this title, the Administrator  
11 shall issue regulations establishing a Federal green-  
12 house gas registry. Such regulations shall—

13 “(A) require reporting entities to submit to  
14 the Administrator data on—

15 “(i) greenhouse gas emissions in the  
16 United States;

17 “(ii) the production and manufacture  
18 in the United States, and importation into  
19 the United States, of fuels and other prod-  
20 ucts the uses of which result in greenhouse  
21 gas emissions; and

22 “(iii) the sequestration of greenhouse  
23 gases;



1           “(B) ensure the completeness, consistency,  
2           transparency, accuracy, precision, and reliability  
3           of such data;

4           “(C) take into account the best practices  
5           from the most recent Federal, State, tribal, and  
6           international protocols for the measurement, ac-  
7           counting, reporting, and verification of green-  
8           house gas emissions, including protocols from  
9           the Climate Registry and other mandatory  
10          State or multistate authorized programs;

11          “(D) take into account the latest scientific  
12          research;

13          “(E) require that, wherever feasible, sub-  
14          mitted data are based on monitoring systems  
15          for fuel flow or emissions, such as continuous  
16          emission monitoring systems or systems of  
17          equivalent precision, reliability, accessibility,  
18          and timeliness;

19          “(F) include methods for minimizing dou-  
20          ble reporting and avoiding irreconcilable double  
21          reporting of greenhouse gas emissions;

22          “(G) require that reports are submitted  
23          electronically to the Administrator, in such  
24          form and to such extent as may be required by  
25          the Administrator;

1           “(H) include protocols for the auditing of  
2 submitted data;

3           “(I) establish consistent policies for calcu-  
4 lating carbon content and greenhouse gas emis-  
5 sions for each type of fossil fuel with respect to  
6 which reporting is required;

7           “(J) subsequent to implementation of poli-  
8 cies developed under subparagraph (I), provide  
9 for immediate public dissemination on the  
10 Internet of all data reported under this section  
11 as soon as practicable after electronic audit by  
12 the Administrator and any resulting correction  
13 of data, except that data shall not be dissemi-  
14 nated on the Internet if—

15           “(i) its nondissemination is vital to  
16 the national security of the United States,  
17 as determined by the President; or

18           “(ii) it is confidential business infor-  
19 mation that cannot be derived from infor-  
20 mation that is otherwise publicly available  
21 and that would cause significant calculable  
22 competitive harm if published (except that  
23 information relating to greenhouse gas  
24 emissions shall not be considered to be  
25 confidential business information);

1           “(K) prescribe methods for covered entities  
2 beginning in 2012 by which the Administrator  
3 shall, in cases in which satisfactory data are not  
4 submitted to the Administrator for any period  
5 of time, replace the missing data with a con-  
6 servative estimate of the highest emission levels  
7 that may have occurred during the period for  
8 which data are missing, in order to ensure that  
9 emissions are not underreported and to create  
10 a strong incentive for meeting data monitoring  
11 and reporting requirements;

12           “(L) require an appropriate certification,  
13 by the designated representative for the report-  
14 ing entity and as determined by the Adminis-  
15 trator, of accurate and complete accounting of  
16 greenhouse gas emissions; and

17           “(M) include requirements for other data  
18 necessary for accurate and complete accounting  
19 of greenhouse gas emissions, as determined by  
20 the Administrator, including data for quality  
21 assurance of monitors and other measurement  
22 devices and other data needed to verify reported  
23 emissions.

24           “(2) TIMING.—

1           “(A) CALENDAR YEARS 2007 THROUGH  
2           2010.—For a base period of calendar years  
3           2007 through 2010, each reporting entity shall  
4           submit annual data required under this section  
5           to the Administrator not later than March 31,  
6           2011. The Administrator may waive or modify  
7           reporting requirements for calendar years 2007  
8           through 2010 for categories of reporting enti-  
9           ties if the Administrator determines that the re-  
10          porting entities did not keep data or records  
11          necessary to meet reporting requirements. The  
12          Administrator may, in addition to or in lieu of  
13          such requirements, collect information on en-  
14          ergy consumption and production.

15          “(B) SUBSEQUENT CALENDAR YEARS.—  
16          For calendar year 2011 and each subsequent  
17          calendar year, each reporting entity shall sub-  
18          mit quarterly data required under this section  
19          to the Administrator not later than 60 days  
20          after the end of the applicable quarter, except  
21          when the data is already being reported to the  
22          Administrator on an earlier timeframe for an-  
23          other program.

24          “(3) DE MINIMIS EXEMPTIONS.—

1           “(A) IN GENERAL.—The Administrator  
2           may determine—

3                   “(i) whether certain sources at a re-  
4                   porting entity should be considered to be  
5                   eligible for a de minimis exemption from a  
6                   requirement for reporting under paragraph  
7                   (1); and

8                   “(ii) the level of greenhouse gases  
9                   emitted from a source that would qualify  
10                  for such an exemption.

11           “(B) FACTORS.—In making a determina-  
12           tion under subparagraph (A), the Administrator  
13           shall consider the availability and suitability of  
14           simplified techniques and tools for quantifying  
15           emissions and the cost to measure those emis-  
16           sions relative to the purposes of this title, in-  
17           cluding the goal of collecting complete and con-  
18           sistent entitywide data.

19           “(4) WAIVER OF REPORTING REQUIREMENTS.—  
20           The Administrator may waive reporting require-  
21           ments under this section for specific entities if the  
22           Administrator determines that sufficient and equally  
23           or more reliable verified and timely data are avail-  
24           able to the Administrator and the public under other  
25           mandatory statutory requirements.

1           “(5) REVIEW.—Not later than 10 years after  
2           the date of enactment of this title, the Administrator  
3           shall review the use of reporting thresholds and  
4           metrics under the regulations established under sub-  
5           section (b). If the Administrator determines that a  
6           lower reporting threshold is appropriate for some or  
7           all reporting entities, the Administrator shall by rule  
8           adjust the threshold for such reporting entities as  
9           low as, but no lower than, 10,000 tons of carbon di-  
10          oxide equivalent. The Administrator may, by rule,  
11          establish an applicability threshold for reporting  
12          under this section using an alternative metric and  
13          level, provided that such metric and level are easier  
14          to administer and cover the same size and type of  
15          sources as the threshold defined in this section.

16          “(c) INTERRELATIONSHIP WITH OTHER SYSTEMS.—  
17          In developing the regulations issued under subsection (b),  
18          the Administrator shall take into account the work done  
19          by the Climate Registry and other mandatory State or  
20          multistate programs. Such regulations shall include an ex-  
21          planation of any major differences in approach between  
22          the system established under the regulations and such reg-  
23          istries and programs.

1       **“PART B—CAP AND TRADE PROGRAM RULES**

2       **“SEC. 711. EMISSION ALLOWANCES.**

3           “(a) IN GENERAL.—The Administrator shall estab-  
4       lish a separate quantity of emission allowances for each  
5       calendar year starting in 2012, in the amounts prescribed  
6       under subsection (e).

7           “(b) IDENTIFICATION NUMBERS.—The Adminis-  
8       trator shall assign to each emission allowance established  
9       under subsection (a) a unique identification number that  
10       includes the vintage year for that emission allowance.

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

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

14           “(2) TERMINATION OR LIMITATION.—Nothing  
15       in this Act or any other provision of law shall be  
16       construed to limit or alter the authority of the  
17       United States, including the Administrator acting  
18       pursuant to statutory authority, to terminate or  
19       limit an emission allowance.

20           “(3) OTHER PROVISIONS UNAFFECTED.—Noth-  
21       ing in this Act relating to emission allowances issued  
22       under this title shall affect the application of any  
23       other provision of law to a covered entity, or the re-  
24       sponsibility for a covered entity to comply with any  
25       such provision of law.

1           “(d) SAVINGS PROVISION.—Nothing in this title shall  
 2 be construed as requiring a change of any kind in any  
 3 State law regulating electric utility rates and charges, or  
 4 as affecting any State law regarding such State regula-  
 5 tion, or as limiting State regulation (including any  
 6 prudency review) under such a State law, except as ex-  
 7 pressly provided in section 722(c) and section 733. Noth-  
 8 ing in this title shall be construed as modifying the Fed-  
 9 eral Power Act or as affecting the authority of the Federal  
 10 Energy Regulatory Commission under that Act. Nothing  
 11 in this title shall be construed to interfere with or impair  
 12 any program for competitive bidding for power supply in  
 13 a State in which such program is established.

14           “(e) ALLOWANCES FOR EACH CALENDAR YEAR.—

15                   “(1) IN GENERAL.—Except as provided in para-  
 16 graph (2), the number of emission allowances estab-  
 17 lished by the Administrator under subsection (a) for  
 18 each calendar year shall be the sum of the amounts  
 19 in columns A and B in the following table:

“Calendar year	<b>Column A: Emission allowances (in millions) other than column B amounts</b>	<b>Column B: Emission allowances (in millions) for local distribution companies</b>
2012	4987	0
2013	5025	0
2014	5912	0
2015	5855	0



<b>“Calendar year</b>	<b>Column A: Emission allowances (in millions) other than column B amounts</b>	<b>Column B: Emission allowances (in millions) for local distribution companies</b>
2016	5797	0
2017	5740	427
2018	5625	418
2019	5510	410
2020	5395	401
2021	5176	385
2022	4956	369
2023	4736	352
2024	4516	336
2025	4297	320
2026	4077	303
2027	3857	287
2028	3637	271
2029	3418	254
2030	3198	238
2031	3095	230
2032	2993	223
2033	2890	215
2034	2788	207
2035	2685	200
2036	2583	192
2037	2480	184
2038	2378	177
2039	2275	169
2040	2173	162

<b>“Calendar year</b>	<b>Column A: Emission allowances (in millions) other than column B amounts</b>	<b>Column B: Emission allowances (in millions) for local distribution companies</b>
2041	2070	154
2042	1968	146
2043	1865	139
2044	1763	131
2045	1660	124
2046	1558	116
2047	1455	108
2048	1353	101
2049	1250	93
2050 and each year thereafter	1148	85

1           “(2) REDUCTION.—If the Administrator makes  
2           an affirmative determination under section  
3           712(b)(2)(B), the number of emission allowances  
4           shown in column B of the table in paragraph (1) of  
5           this subsection for each of calendar years 2017  
6           through 2021 shall not be established.

7           “(f) DESTRUCTION ALLOWANCE.—

8           “(1) The regulations promulgated under sub-  
9           section (g) shall provide for the distribution of de-  
10          struction allowances for the destruction, in 2012 or  
11          later, of fluorinated gases that are greenhouse gases  
12          if—

13           “(A) such gases were manufactured—

1 “(i) before January 1, 2008; or

2 “(ii) after January 1, 2012, and al-  
3 lowances were retired for their production;  
4 and

5 “(B) such gases are not required to be de-  
6 stroyed under any provision of law.

7 “(2) For purposes of this subsection, the term  
8 ‘destruction’ means the conversion of a greenhouse  
9 gas by thermal, chemical, or other means to another  
10 gas with little or no global warming potential. The  
11 Administrator shall establish and distribute to the  
12 destroying entity a quantity of destruction allow-  
13 ances no greater than the number of tons of carbon  
14 dioxide equivalent of reduction in global warming po-  
15 tential achieved through such conversion. No de-  
16 struction allowances shall be established for the con-  
17 version of a greenhouse gas emitted as a byproduct.

18 “(g) REGULATIONS.—Not later than 24 months after  
19 the date of enactment of this title, the Administrator shall  
20 promulgate regulations to carry out the provisions of this  
21 title.

22 **“SEC. 712. COMPLIANCE OBLIGATION.**

23 “(a) IN GENERAL.—Except as otherwise provided in  
24 this section, as of 12:01 a.m. on April 1 (or a later date  
25 established by the Administrator under subsection (j)) of

1 each calendar year starting in 2013, the owner or operator  
2 of a covered entity shall hold a quantity of emission allow-  
3 ances at least as great as the quantity calculated as fol-  
4 lows:

5 “(1) ELECTRICITY SOURCES.—For a covered  
6 entity described in section 700(8)(A), 1 emission al-  
7 lowance for each ton of carbon dioxide equivalent of  
8 greenhouse gas that such covered entity emitted in  
9 the previous calendar year, excluding emissions re-  
10 sulting from the use of—

11 “(A) petroleum-based or coal-based liquid  
12 fuel;

13 “(B) biomass;

14 “(C) petroleum coke; or

15 “(D) emissions resulting from the use of  
16 hydrofluorocarbons, perfluorocarbons, sulfur  
17 hexafluoride, nitrogen trifluoride, or any other  
18 fluorinated gas that is a greenhouse gas pur-  
19 chased for use at that covered entity.

20 “(2) FUEL PRODUCERS AND IMPORTERS.—For  
21 a covered entity described in section 700(8)(B), 1  
22 emission allowance for each ton of carbon dioxide  
23 equivalent of greenhouse gas that will be emitted  
24 from the combustion or oxidation of any petroleum-  
25 based or coal-based liquid fuel, including petroleum

1 coke, produced or imported by such covered entity  
2 during the previous calendar year for sale or dis-  
3 tribution in interstate commerce, assuming no cap-  
4 ture and sequestration of any greenhouse gas emis-  
5 sions.

6 “(3) FLUORINATED GAS PRODUCERS AND IM-  
7 PORTERS.—For a covered entity described in section  
8 700(8)(C), 1 emission allowance for each ton of car-  
9 bon dioxide equivalent of perfluorocarbons, sulfur  
10 hexafluoride, nitrogen trifluoride, or any other  
11 fluorinated gas that is a greenhouse gas, or any  
12 combination thereof, produced or imported by such  
13 covered entity during the previous calendar year for  
14 sale or distribution in interstate commerce.

15 “(4) GEOLOGICAL SEQUESTRATION SITES.—For  
16 a covered entity described in section 700(8)(D), 1  
17 emission allowance for each ton of carbon dioxide  
18 equivalent of greenhouse gas that such covered enti-  
19 ty emitted in the previous calendar year.

20 “(5) INDUSTRIAL STATIONARY SOURCES.—For  
21 a covered entity described in section 700(8)(E), (F),  
22 or (G), 1 emission allowance for each ton of carbon  
23 dioxide equivalent of greenhouse gas that such cov-  
24 ered entity emitted in the previous calendar year, ex-  
25 cluding emissions resulting from the use of —

1                   “(A) petroleum-based or coal-based liquid  
2                   fuel;

3                   “(B) biomass;

4                   “(C) petroleum coke; and

5                   “(D) hydrofluorocarbons, perfluorocarbons,  
6                   sulfur hexafluoride, nitrogen trifluoride, or any  
7                   other fluorinated gas that is a greenhouse gas  
8                   purchased for use at that covered entity.

9                   “(6) INDUSTRIAL FOSSIL FUEL-FIRED COMBUS-  
10                  TION DEVICES.—For a covered entity described in  
11                  section 700(8)(H), 1 emission allowance for each ton  
12                  of carbon dioxide equivalent of greenhouse gas that  
13                  the devices emitted in the previous calendar year, ex-  
14                  cluding emissions resulting from the use of—

15                   “(A) petroleum-based or coal-based liquid  
16                   fuel;

17                   “(B) biomass; or

18                   “(C) petroleum coke.

19                   “(7) LOCAL DISTRIBUTION COMPANIES.—For a  
20                  covered entity described in section 700(8)(I), 1 emis-  
21                  sion allowance for each ton of carbon dioxide equiva-  
22                  lent of greenhouse gas that will be emitted from the  
23                  combustion of the natural gas such entity delivered  
24                  during the previous calendar year to commercial and

1 residential customers, assuming no capture and se-  
2 questration of that greenhouse gas.

3 “(8) APPLICATION OF MULTIPLE PARA-  
4 GRAPHS.—A covered entity to which more than 1 of  
5 paragraphs (1) through (7) apply shall hold emission  
6 allowances in compliance with all applicable para-  
7 graphs, except that not more than 1 emission allow-  
8 ance shall be required for the same emission.

9 “(b) PHASE-IN OF COMPLIANCE REQUIREMENT.—

10 “(1) INDUSTRIAL STATIONARY SOURCES.—The  
11 requirement under subsection (a) shall first apply to  
12 a covered entity described in section 700(8)(E), (F),  
13 (G), or (H) with respect to emissions occurring dur-  
14 ing calendar year 2014.

15 “(2) LOCAL DISTRIBUTION COMPANIES.—

16 “(A) IN GENERAL.—Except as provided in  
17 subparagraph (B), the requirement under sub-  
18 section (a) shall first apply to a covered entity  
19 described in section 700(8)(I) with respect to  
20 emissions occurring during calendar year 2017.

21 “(B) EXCEPTION.—The requirement under  
22 subsection (a) shall first apply to a covered en-  
23 tity described in section 700(8)(I) with respect  
24 to emissions occurring during calendar year  
25 2021 if the Administrator determines, no later

1 than November 30, 2016, that the national av-  
2 erage natural gas use for commercial and resi-  
3 dential natural gas consumers for calendar  
4 years 2012 through 2015 is 99 MMBtu per  
5 year or less. In making a determination under  
6 this subparagraph, the Administrator shall rely  
7 on the best data from the Energy Information  
8 Administration, including preliminary 2015  
9 data, and data from other agencies where ap-  
10 propriate.

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

13 “(1) satisfy up to 5 percent of its compliance  
14 obligations under subsection (a) for calendar years  
15 2013 through 2017 by holding in lieu of an emission  
16 allowance an offset credit issued under part D or an  
17 international offset credit issued under part E;

18 “(2) satisfy up to 15 percent of its compliance  
19 obligations under subsection (a) for calendar years  
20 2018 through 2020 by holding in lieu of an emission  
21 allowance an offset credit issued under part D or an  
22 international offset credit issued under part E;

23 “(3) satisfy up to—

24 “(A) 15 percent of its compliance obliga-  
25 tions under subsection (a) for calendar years



1           2021 through 2024 by holding in lieu of an  
2           emission allowance an offset credit issued under  
3           part D;

4           “(B) 15 percent of its compliance obliga-  
5           tions under subsection (a) for calendar year  
6           2021 and any calendar year thereafter by hold-  
7           ing in lieu of an emission allowance an inter-  
8           national offset credit issued under part E;

9           “(4) satisfy up to 20 percent of its compliance  
10          obligations under subsection (a) for calendar year  
11          2025 and any calendar year thereafter by holding in  
12          lieu of an emission allowance an offset credit issued  
13          under part D;

14          “(5) hold in lieu of an emission allowance an  
15          international emission allowance; and

16          “(6) hold in lieu of an emission allowance a de-  
17          struction allowance obtained under section 711(f).

18          “(d) RETIREMENT OF ALLOWANCES AND CRED-  
19          ITS.—As soon as practicable after the deadline under sub-  
20          section (a)(1) for holding allowances, the Administrator  
21          shall retire the quantity of emission allowances, offset  
22          credits, or destruction allowances required in accordance  
23          with subsections (a) and (d).

24          “(e) ALTERNATIVE METRICS.—For categories of cov-  
25          ered entities described in subparagraph (B), (C), (F), (G),

1 or (H) of section 700(8), the Administrator may, by rule,  
2 establish an applicability threshold for inclusion under  
3 those subparagraphs using an alternative metric and level,  
4 provided that such metric and level are easier to admin-  
5 ister and cover the same size and type of sources as the  
6 threshold defined in such subparagraphs.

7 “(f) DESIGNATED REPRESENTATIVES.—The regula-  
8 tions promulgated under section 711(g) shall require that  
9 each covered entity select a designated representative in  
10 order to be eligible to receive emission allowances under  
11 this title.

12 “(g) EDUCATION AND OUTREACH.—

13 “(1) IN GENERAL.—The Administrator shall es-  
14 tablish and carry out a program of education and  
15 outreach to assist covered entities, especially entities  
16 having little experience with environmental regu-  
17 latory requirements similar or comparable to those  
18 under this title, in preparing to meet the compliance  
19 obligations of this title. Such program shall include  
20 education with respect to using markets to effec-  
21 tively achieve such compliance.

22 “(2) FAILURE TO RECEIVE INFORMATION.—A  
23 failure to receive information or assistance under  
24 this subsection may not be used as a defense against  
25 an allegation of any violation of this title.

1           “(h) NONEMISSIVE USE CREDIT.—Not later than 3  
2 years after the date of enactment of this title, the Admin-  
3 istrator shall promulgate regulations governing the dis-  
4 tribution of emission allowances for each ton of carbon di-  
5 oxide equivalent of greenhouse gas—

6           “(1) that is not emitted due to the nonemissive  
7 use of petroleum-based or coal-based products as  
8 feedstocks, or the nonemissive use of  
9 perfluorocarbons in semiconductor research or man-  
10 ufacturing in the United States; and

11           “(2) for which an emission allowance was or is  
12 required to be retired.

13           “(i) ADJUSTMENT OF OBLIGATION DEADLINE.—The  
14 Administrator may, by rule, establish a compliance obliga-  
15 tion deadline, for a calendar year, later than the date pro-  
16 vided in subsection (a), as necessary to ensure the avail-  
17 ability of emissions data, but in no event shall the deadline  
18 be later than June 1.

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

20           “(a) ENFORCEMENT.—A violation of any prohibition  
21 of, requirement of, or regulation promulgated pursuant to  
22 this title shall be a violation of this Act. Each emission  
23 allowance not held as required by this title shall be a sepa-  
24 rate violation.

25           “(b) EXCESS EMISSIONS PENALTY.—

1           “(1) IN GENERAL.—The owner or operator of  
2           any covered entity that fails for any year to hold, on  
3           the deadline described in section 712(a) or (i) or  
4           715(c), 1 or more of the emission allowances due  
5           pursuant to either of those sections shall be liable  
6           for payment to the Administrator of an excess emis-  
7           sions penalty in the amount described in paragraph  
8           (2).

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

13                 “(A) the number of emission allowances  
14                 that the owners or operators failed to hold on  
15                 the deadline; by

16                 “(B) 0.5 times the fair market value of  
17                 emission allowances issued for emissions occur-  
18                 ring in the calendar year for which the emission  
19                 allowances were due.

20          “(3) TIMING.—An excess emissions penalty re-  
21          quired under this subsection shall be immediately  
22          due and payable to the Administrator, without de-  
23          mand, in accordance with regulations promulgated  
24          by the Administrator, which shall be issued not later

1 than 2 years after the date of enactment of this  
2 title.

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

10 “(c) EXCESS EMISSIONS ALLOWANCES.—The owners  
11 or operators of a covered entity that fail for any year to  
12 hold, on the deadline described in section 712(a) or (i)  
13 or 715(c), 1 or more of the emission allowances due pursu-  
14 ant to either of those sections shall be liable to offset the  
15 excess emissions by an equal quantity of emission allow-  
16 ances during—

17 “(1) the following calendar year; or

18 “(2) such longer period as the Administrator  
19 may prescribe.

20 **“SEC. 714. TRADING.**

21 “(a) PERMITTED TRANSACTIONS.—Except as other-  
22 wise provided in this title, the lawful holder of an emission  
23 allowance may, without restriction, sell, exchange, trans-  
24 fer, hold for compliance in accordance with section 712,

1 or request that the Administrator retire the emission al-  
2 lowance.

3 “(b) NO RESTRICTION ON TRANSACTIONS.—The  
4 privilege of purchasing, holding, selling, exchanging, and  
5 requesting retirement of emission allowances shall not be  
6 restricted to the owners and operators of covered entities,  
7 except as otherwise provided in this title.

8 “(c) EFFECTIVENESS OF ALLOWANCE TRANS-  
9 FERS.—No transfer of an emission allowance shall be ef-  
10 fective until a written certification of the transfer, signed  
11 by a responsible official of the transferor, is received and  
12 recorded by the Administrator in accordance with regula-  
13 tions promulgated under section 711(g).

14 “(d) ALLOWANCE TRACKING SYSTEM.—The regula-  
15 tions promulgated under section 711(g) shall include a  
16 system for issuing, recording, holding, and tracking emis-  
17 sion allowances that shall specify all necessary procedures  
18 and requirements for an orderly and competitive func-  
19 tioning of the emission allowance system. Such regulations  
20 shall provide for appropriate publication of the informa-  
21 tion in the system on the Internet.

22 **“SEC. 715. BANKING AND BORROWING.**

23 “(a) BANKING.—An emission allowance may be used  
24 to meet the compliance obligation requirements of section  
25 712(a) for emissions in—

1 “(1) the vintage year for the allowance; or

2 “(2) any calendar year subsequent to the vin-  
3 tage year for the allowance.

4 “(b) EXPIRATION.—An emission allowance shall not  
5 expire unless—

6 “(1) it is retired by the Administrator as re-  
7 quired under this title; or

8 “(2) the Administrator determines by regula-  
9 tion that expiration is necessary to ensure the au-  
10 thenticity and integrity of allowances or the allow-  
11 ance tracking system.

12 “(c) BORROWING FUTURE VINTAGE YEAR ALLOW-  
13 ANCES.—

14 “(1) BORROWING WITHOUT INTEREST.—In ad-  
15 dition to the uses described in subsection (a), an  
16 emission allowance may be used to meet the compli-  
17 ance obligation requirements of section 712(a) for  
18 emissions in the calendar year immediately pre-  
19 ceding the vintage year for the allowance.

20 “(2) BORROWING WITH INTEREST.—

21 “(A) IN GENERAL.—A covered entity may  
22 satisfy up to 15 percent of its compliance obli-  
23 gations under section 712(a) in a specific cal-  
24 endar year by holding emission allowances with

1 a vintage year 1 to 5 years later than that cal-  
2 endar year.

3 “(B) LIMITATIONS.—An emission allow-  
4 ance borrowed pursuant to this paragraph shall  
5 be an emission allowance established by the Ad-  
6 ministrator for a specific future calendar year  
7 under section 711(a) is held by the borrower.

8 “(C) REPAYMENT WITH INTEREST.—For  
9 each emission allowance that an owner or oper-  
10 ator of a covered entity borrows pursuant to  
11 this paragraph, such owner or operator shall, at  
12 the time it borrows the allowance, hold for re-  
13 tirement by the Administrator a quantity of  
14 emission allowances that is equal to the product  
15 obtained by multiplying—

16 “(i) 0.08; by

17 “(ii) the number of years between the  
18 calendar year in which the allowances are  
19 being used to satisfy a compliance obliga-  
20 tion and the vintage year of the allowance.

21 **“SEC. 716. STRATEGIC RESERVE.**

22 “(a) STRATEGIC RESERVE AUCTIONS.—

23 “(1) IN GENERAL.—Once each quarter of each  
24 calendar year for which compliance obligation re-



1 requirements under section 712(a) apply, the Adminis-  
2 trator shall auction strategic reserve allowances.

3 “(2) RESTRICTION TO COVERED ENTITIES.—In  
4 each auction conducted under paragraph (1), only  
5 covered entities that are required under section  
6 712(a) to hold emission allowances in the following  
7 calendar year shall be eligible to purchase emission  
8 allowances.

9 “(b) POOL OF EMISSION ALLOWANCES FOR STRA-  
10 TEGIC RESERVE AUCTIONS.—

11 “(1) FILLING THE STRATEGIC RESERVE.—

12 “(A) IN GENERAL.—The Administrator  
13 shall, not later than 2 years after the date of  
14 enactment of this title, reserve for auction  
15 under this section 2,665,000,000 of the emis-  
16 sion allowances established for the period of cal-  
17 endar years 2012 through 2050 pursuant to  
18 section 711.

19 “(B) EQUIVALENT PERCENTAGE RE-  
20 MOVAL.—For each of calendar years 2012  
21 through 2050, the quantity of emission allow-  
22 ances reserved pursuant to subparagraph (A)  
23 from the quantity established for that year pur-  
24 suant to section 711(e)(1) shall be a percentage

1 that remains constant from calendar year to  
2 calendar year.

3 “(C) EFFECT ON OTHER PROVISIONS.—

4 Any provision in this title that refers to a quan-  
5 tity or percentage of the emission allowances es-  
6 tablished for a calendar year under section 711  
7 shall be considered to refer to the amount of  
8 emission allowances shown for that year in the  
9 table under section 711(e)(1), less any emission  
10 allowances established for that year that are  
11 placed in the strategic reserve under this para-  
12 graph.

13 “(2) SUPPLEMENTING THE STRATEGIC RE-  
14 SERVE.—The Administrator shall also—

15 “(A) transfer to the strategic reserve each  
16 emission allowance that was offered for sale but  
17 not sold at a regular auction conducted under  
18 part C; and

19 “(B) convert offset credits purchased  
20 under subsection (f) to emission allowances, and  
21 deposit them into the strategic reserve.

22 “(c) MINIMUM STRATEGIC RESERVE AUCTION  
23 PRICE.—

24 “(1) IN GENERAL.—At each strategic reserve  
25 auction, the Administrator shall offer emission al-

1 allowances for sale beginning at a minimum price per  
2 emission allowance, which shall be known as the  
3 ‘minimum strategic reserve auction price’.

4 “(2) INITIAL MINIMUM STRATEGIC RESERVE  
5 AUCTION PRICES.—The minimum strategic reserve  
6 auction price shall be **【\$20 to \$30】** for the strategic  
7 reserve auctions held in 2012. For the strategic re-  
8 serve auctions held in 2013 and 2014, the minimum  
9 strategic reserve auction price shall be the strategic  
10 reserve auction price for the previous year increased  
11 by 5 percent plus the rate of inflation (as measured  
12 by the Consumer Price Index).

13 “(3) MINIMUM STRATEGIC RESERVE AUCTION  
14 PRICE IN SUBSEQUENT YEARS.—For each strategic  
15 reserve auction held in 2015 and each year there-  
16 after, the minimum strategic reserve auction price  
17 shall be **【30 - 100 percent】** above a rolling 36-  
18 month average of the daily closing spot price for  
19 that year’s allowance vintage as reported on carbon  
20 trading facilities that have registered pursuant to  
21 section 405 of the Federal Power Act.

22 “(d) QUANTITY OF EMISSION ALLOWANCES SOLD AT  
23 STRATEGIC RESERVE AUCTION.—

1           “(1) IN GENERAL.—At each strategic reserve  
2 auction, there shall be a limit on the quantity of  
3 emission allowances that the Administrator may sell.

4           “(2) INITIAL LIMITS.—At the strategic reserve  
5 auctions conducted during calendar years 2012  
6 through 2016, the annual strategic reserve auction  
7 limit referred to in paragraph (1) shall be 5 percent  
8 of the allowances established for that calendar year  
9 under section 711(e).

10           “(3) LIMITS IN SUBSEQUENT YEARS.—At the  
11 strategic reserve auctions conducted during calendar  
12 year 2017 and each year thereafter, the annual stra-  
13 tegic reserve auction limit referred to in paragraph  
14 (1) shall be 10 percent of the allowances issued for  
15 that calendar year under section 711.

16           “(4) ALLOCATION OF LIMITATION.—One-fourth  
17 of each year’s annual strategic reserve auction limit  
18 under this subsection shall be made available for  
19 auction in each quarter. Any allowances made avail-  
20 able for sale in a quarterly auction and not sold  
21 shall be rolled over and added to the quantity avail-  
22 able for sale in the following quarter, except that al-  
23 lowances not sold at auction in the fourth quarter of  
24 a year shall not be rolled over to the following cal-

1       endar year's auctions, but shall be returned to the  
2       reserve.

3       “(e) PURCHASE LIMIT.—

4               “(1) IN GENERAL.—Except as provided in para-  
5       graph (2) or (3), the annual number of emission al-  
6       lowances that a covered entity may purchase at the  
7       strategic reserve auctions in each calendar year shall  
8       not exceed 10 percent of the covered entity's emis-  
9       sion allowance compliance obligation under section  
10      712(a) for emissions occurring in the year prior to  
11      the year of the strategic reserve auctions.

12              “(2) 2012 LIMIT.—For calendar year 2012, the  
13      maximum number of emission allowances that a cov-  
14      ered entity may purchase from that year's strategic  
15      reserve auctions shall be 10 percent of the covered  
16      entity's greenhouse gas emissions that the covered  
17      entity reported to the registry established under sec-  
18      tion 703 for 2011 and for which emission allowances  
19      would be required under section 712(a) if occurring  
20      in later calendar years.

21              “(3) NEW ENTRANTS.—The Administrator  
22      shall, by regulation, establish a separate limitation  
23      applicable to covered entities who were not covered  
24      entities during the year prior to the auction, permit-  
25      ting them to purchase emission allowances at the

1 strategic reserve auctions in their first calendar year  
2 of operation in an amount of at least 10 percent of  
3 their expected compliance obligation under section  
4 712(a) for that year.

5 “(f) USE OF AUCTION PROCEEDS.—The proceeds  
6 from strategic reserve auctions shall be placed in the Stra-  
7 tegic Reserve Fund established under section 731, and  
8 shall be available without further appropriation or fiscal  
9 year limitation. The Administrator shall use the proceeds  
10 from each strategic reserve auction to purchase inter-  
11 national offset credits for international forest carbon ac-  
12 tivities for use as provided in subsection (b)(2)(B).

13 “(g) INITIAL REGULATIONS.—Not later than 24  
14 months after the date of enactment of this title, the Ad-  
15 ministrator shall promulgate regulations, in consultation  
16 with the Federal Energy Regulatory Commission, gov-  
17 erning the auction of allowances under this section. Such  
18 regulations shall include the following requirements:

19 “(1) FREQUENCY; FIRST AUCTION.—Auctions  
20 shall be held four times per year at regular intervals,  
21 with the first auction to be held no later than March  
22 31, 2012.

23 “(2) AUCTION FORMAT.—Auctions shall follow  
24 a single-round, sealed-bid, uniform price format.

1           “(3) PARTICIPATION; FINANCIAL ASSURANCE.—  
2 Auctions shall be open to any covered entity, except  
3 that the Administrator may establish financial as-  
4 surance requirements to ensure that auction partici-  
5 pants can and will perform on their bids.

6           “(4) DISCLOSURE OF BENEFICIAL OWNER-  
7 SHIP.—Each bidder in an auction shall be required  
8 to disclose the person or entity sponsoring or bene-  
9 fitting from the bidder’s participation in the auction  
10 if such person or entity is, in whole or in part, other  
11 than the bidder or the bidder’s employer.

12           “(5) BIDDING LIMITS.—No person may, di-  
13 rectly or in concert with another participant, pur-  
14 chase more than 20 percent of the allowances of-  
15 fered for sale at any quarterly auction.

16           “(6) PUBLICATION OF INFORMATION.—After  
17 the auction, the Administrator shall, in a timely  
18 fashion, publish the identities of winning bidders,  
19 the quantity of allowances obtained by each winning  
20 bidder, and the auction clearing price.

21           “(7) OTHER REQUIREMENTS.—The Adminis-  
22 trator may include in the regulations such other re-  
23 quirements or provisions as the Administrator, in  
24 consultation with the Federal Energy Regulatory  
25 Commission, considers necessary to promote effec-

1           tive, efficient, transparent, and fair administration  
2           of auctions under this section.

3           “(h) REVISION OF REGULATIONS.—The Adminis-  
4           trator may, at any time, in consultation with the Federal  
5           Energy Regulatory Commission, revise the initial regula-  
6           tions promulgated under subsection (g). Such revised reg-  
7           ulations need not meet the requirements identified in sub-  
8           section (g) if the Administrator determines that an alter-  
9           native auction design would be more effective, taking into  
10          account factors including costs of administration, trans-  
11          parency, fairness, and risks of collusion or manipulation.  
12          In determining whether and how to revise the initial regu-  
13          lations under this subsection, the Administrator shall not  
14          consider maximization of revenues to the Federal Govern-  
15          ment.

16          **“SEC. 717. PERMITS.**

17          “(a) PERMIT PROGRAM.—For stationary sources  
18          subject to title V of this Act, the provisions of this title  
19          shall be implemented by permits issued to covered entities  
20          (and enforced) in accordance with the provisions of title  
21          V. Any such permit issued by the Administrator, or by  
22          a State with an approved permit program, shall prohibit  
23          annual emissions of greenhouse gases in excess of the  
24          number of emission allowances that the owner or operator  
25          of the covered entity holds. No permit shall be issued that



1 is inconsistent with the requirements of this title, and title  
2 V as applicable. Nothing in this section regarding compli-  
3 ance plans or in title V shall be construed as affecting  
4 emission allowances. Submission of a statement by the  
5 owner or operator, or the designated representative of the  
6 owners and operators, of a covered entity that the owners  
7 and operators will hold allowances to emit not less than  
8 the total annual emissions of the covered entity, shall be  
9 deemed to meet the proposed and approved compliance  
10 planning requirements of title V. Recordation by the Ad-  
11 ministrator of transfers of emission allowances shall  
12 amend automatically all applicable proposed or approved  
13 permit applications, compliance plans, and permits.

14       “(b) TITLE V PERMITS.—Notwithstanding the provi-  
15 sions of title V, no stationary source or other covered enti-  
16 ty shall be required to apply for, or operate pursuant to,  
17 a permit issued under such title solely because such source  
18 is subject to regulations or requirements under this title.

19       “(c) MULTIPLE OWNERS.—No permit or emission al-  
20 lowances shall be issued under this section to a covered  
21 entity or any other entity until the designated representa-  
22 tive of the owners or operators has filed a certificate of  
23 representation with regard to matters under this title, in-  
24 cluding the holding and distribution of emission allow-  
25 ances and the proceeds of transactions involving emission

1 allowances. Where there are multiple holders of a legal or  
2 equitable title to, or a leasehold interest in, such a covered  
3 entity, or where a utility or industrial customer purchases  
4 power from an independent power producer, as defined in  
5 section 722(a)(4)(A), the certificate shall state—

6           “(1) that emission allowances and the proceeds  
7           of transactions involving emission allowances will be  
8           deemed to be held or distributed in proportion to  
9           each holder’s legal, equitable, leasehold, or contrac-  
10          tual reservation or entitlement; or

11           “(2) if such multiple holders have expressly pro-  
12          vided for a different distribution of emission allow-  
13          ances by contract, that emission allowances and the  
14          proceeds of transactions involving emission allow-  
15          ances will be deemed to be held or distributed in ac-  
16          cordance with the contract.

17 A passive lessor, or a person who has an equitable interest  
18 through such lessor, whose rental payments are not based,  
19 either directly or indirectly, upon the revenues or income  
20 from the affected unit shall not be deemed to be a holder  
21 of a legal, equitable, leasehold, or contractual interest for  
22 the purpose of holding or distributing emission allowances  
23 as provided in this subsection, during either the term of  
24 such leasehold or thereafter, unless expressly provided for  
25 in the leasehold agreement. Except as otherwise provided

1 in this subsection, where all legal or equitable title to or  
2 interest in a covered entity, or other entity allocated allow-  
3 ances, is held by a single person, the certification shall  
4 state that all allowances received by the entity are deemed  
5 to be held for that person.

6 **“PART C—DISTRIBUTION OF EMISSION**  
7 **ALLOWANCES**

8 **“SEC. 721. ALLOCATIONS [OPTION A].**

**【Note: This discussion draft contains 4 different op-  
tions for section 721】**

9 “(a) IN GENERAL.—The Administrator shall allocate  
10 emission allowances with vintage years from 2012 through  
11 2025 as follows:

12 “(1) ELECTRICITY SECTOR.—

13 “(A) For vintage years 2012 and 2013,  
14 49.0 percent of the number of allowances pro-  
15 vided in Column A of the table in section  
16 711(e)(1) shall be allocated to the electricity  
17 sector pursuant to section 722(a).

18 “(B) For vintage years 2014 through  
19 2025, 42.0 percent of the number of allowances  
20 provided in Column A of the table in section  
21 711(e)(1) shall be allocated to the electricity  
22 sector pursuant to section 722(a).

23 “(2) INDUSTRIAL SECTOR.—

1           “(A) For vintage years 2012 through  
2           2025, 0.5 percent of the number of allowances  
3           provided in Column A of the table in section  
4           711(e)(1) shall be allocated to stationary  
5           sources described in section 700(8)(C) pursuant  
6           to section 722(b)(1).

7           “(B) For vintage years 2014 through  
8           2025, 14.25 percent of the number of allow-  
9           ances provided in Column A of the table in sec-  
10          tion 711(e)(1) shall be allocated to covered enti-  
11          ties described in section 700(8)(E), (F), (G),  
12          and (H) pursuant to section 722(b)(2), (3), or  
13          (4).

14          “(3) ENERGY EFFICIENCY.—

15          “(A) For vintage years 2012 and 2013,  
16          13.5 percent of the number of allowances pro-  
17          vided in Column A of the table in section  
18          711(e)(1) shall be allocated to energy efficiency  
19          programs pursuant to section 723, with the fol-  
20          lowing suballocations:

21                  “(i) 7.0 percent of the number of al-  
22                  lowances provided in Column A of the  
23                  table in section 711(e)(1) shall be allocated  
24                  to the State Energy Efficiency Develop-  
25                  ment Fund program.

1           “(ii) 0 percent of the number of allow-  
2           ances provided in Column A of the table in  
3           section 711(e)(1) shall be allocated to  
4           State Electricity Efficiency Programs and  
5           State Recycling Programs.

6           “(iii) 3.0 percent of the number of al-  
7           lowances provided in Column A of the  
8           table in section 711(e)(1) shall be allocated  
9           to the State and Local Transportation En-  
10          ergy Efficiency Program.

11          “(iv) 0.5 percent of the number of al-  
12          lowances provided in Column A of the  
13          table in section 711(e)(1) shall be allocated  
14          to Energy Efficiency and Conservation  
15          Block Grants.

16          “(v) 1.5 percent of the number of al-  
17          lowances provided in Column A of the  
18          table in section 711(e)(1) shall be allocated  
19          to Weatherization Assistance Program.

20          “(vi) 0.5 percent of the number of al-  
21          lowances provided in Column A of the  
22          table in section 711(e)(1) shall be allocated  
23          to building programs.

24          “(vii) 0.5 percent of the number of al-  
25          lowances provided in Column A of the

1 table in section 711(e)(1) shall be allocated  
2 to Energy Sustainability and Efficiency  
3 Grants and Loans for Institutions.

4 “(viii) 0.5 percent of the number of  
5 allowances provided in Column A of the  
6 table in section 711(e)(1) shall be allocated  
7 to waste energy programs.

8 “(B) For vintage years 2014 through  
9 2016, 10.5 percent of the number of allowances  
10 provided in Column A of the table in section  
11 711(e)(1) shall be allocated to energy efficiency  
12 programs pursuant to section 723, with the fol-  
13 lowing suballocations:

14 “(i) 5.0 percent of the number of al-  
15 lowances provided in Column A of the  
16 table in section 711(e)(1) shall be allocated  
17 to the State Energy Efficiency Develop-  
18 ment Fund program.

19 “(ii) 0 percent of the number of allow-  
20 ances provided in Column A of the table in  
21 section 711(e)(1) shall be allocated to  
22 State Electricity Efficiency Programs  
23 State Recycling Programs.

24 “(iii) 3.0 percent of the number of al-  
25 lowances provided in Column A of the

1 table in section 711(e)(1) shall be allocated  
2 to the State and Local Transportation En-  
3 ergy Efficiency Program.

4 “(iv) 0.5 percent of the number of al-  
5 lowances provided in Column A of the  
6 table in section 711(e)(1) shall be allocated  
7 to Energy Efficiency and Conservation  
8 Block Grants.

9 “(v) 0.5 percent of the number of al-  
10 lowances provided in Column A of the  
11 table in section 711(e)(1) shall be allocated  
12 to Weatherization Assistance Program.

13 “(vi) 0.5 percent of the number of al-  
14 lowances provided in Column A of the  
15 table in section 711(e)(1) shall be allocated  
16 to building programs.

17 “(vii) 0.5 percent of the number of al-  
18 lowances provided in Column A of the  
19 table in section 711(e)(1) shall be allocated  
20 to Energy Sustainability and Efficiency  
21 Grants and Loans for Institutions.

22 “(viii) 0.5 percent of the number of  
23 allowances provided in Column A of the  
24 table in section 711(e)(1) shall be allocated  
25 to waste energy programs.

1           “(C) For vintage years 2017 through  
2           2025, 9.5 percent of the number of allowances  
3           provided in Column A of the table in section  
4           711(e)(1) shall be allocated to energy efficiency  
5           programs pursuant to section 723, with the fol-  
6           lowing suballocations:

7                   “(i) **intentionally left blank**”.

8                   “(ii) 4.0 percent of the number of al-  
9                   lowances provided in Column A of the  
10                  table in section 711(e)(1) shall be allocated  
11                  to State Electricity Efficiency Programs  
12                  and State Recycling Programs.

13                  “(iii) 3.0 percent of the number of al-  
14                  lowances provided in Column A of the  
15                  table in section 711(e)(1) shall be allocated  
16                  to the State and Local Transportation En-  
17                  ergy Efficiency Program.

18                  “(iv) 0.5 percent of the number of al-  
19                  lowances provided in Column A of the  
20                  table in section 711(e)(1) shall be allocated  
21                  to Energy Efficiency and Conservation  
22                  Block Grants.

23                  “(v) 0.5 percent of the number of al-  
24                  lowances provided in Column A of the



1 table in section 711(e)(1) shall be allocated  
2 to Weatherization Assistance Program.

3 “(vi) 0.5 percent of the number of al-  
4 lowances provided in Column A of the  
5 table in section 711(e)(1) shall be allocated  
6 to building programs.

7 “(vii) 0.5 percent of the number of al-  
8 lowances provided in Column A of the  
9 table in section 711(e)(1) shall be allocated  
10 to Energy Sustainability and Efficiency  
11 Grants and Loans for Institutions.

12 “(viii) 0.5 percent of the number of  
13 allowances provided in Column A of the  
14 table in section 711(e)(1) shall be allocated  
15 to waste energy programs.

16 “(4) CLEAN TECHNOLOGY.—

17 “(A) For vintage years 2012 and 2013,  
18 10.75 percent of the number of allowances pro-  
19 vided in Column A of the table in section  
20 711(e)(1) shall be allocated for clean technology  
21 development and deployment pursuant to sec-  
22 tion 724, with the following suballocations:

23 “(i) 2.0 percent of the number of al-  
24 lowances provided in Column A of the  
25 table in section 711(e)(1) shall be allocated

1 for carbon capture and storage pursuant to  
2 section 724.

3 “(ii) 3.0 percent of the number of al-  
4 lowances provided in Column A of the  
5 table in section 711(e)(1) shall be allocated  
6 for renewable energy deployment pursuant  
7 to section 724.

8 “(iii) 0.75 percent of the number of  
9 allowances provided in Column A of the  
10 table in section 711(e)(1) shall be allocated  
11 for the smart grid program pursuant to  
12 section 724.

13 “(iv) 3.0 percent of the number of al-  
14 lowances provided in Column A of the  
15 table in section 711(e)(1) shall be allocated  
16 for Clean Vehicle Technology programs  
17 pursuant to section 724.

18 “(v) 2.0 percent of the number of al-  
19 lowances provided in Column A of the  
20 table in section 711(e)(1) shall be allocated  
21 for Clean Fuels programs pursuant to sec-  
22 tion 724.

23 “(B) For vintage years 2014 through  
24 2016, 11.0 percent of the number of allowances  
25 provided in Column A of the table in section

1 711(e)(1) shall be allocated for clean technology  
2 development and deployment pursuant to sec-  
3 tion 724, with the following suballocations:

4 “(i) 2.0 percent of the number of al-  
5 lowances provided in Column A of the  
6 table in section 711(e)(1) shall be allocated  
7 for carbon capture and storage pursuant to  
8 section 724.

9 “(ii) 2.75 percent of the number of al-  
10 lowances provided in Column A of the  
11 table in section 711(e)(1) shall be allocated  
12 for renewable energy deployment pursuant  
13 to section 724.

14 “(iii) 0.75 percent of the number of  
15 allowances provided in Column A of the  
16 table in section 711(e)(1) shall be allocated  
17 for the smart grid program pursuant to  
18 section 724.

19 “(iv) 3.5 percent of the number of al-  
20 lowances provided in Column A of the  
21 table in section 711(e)(1) shall be allocated  
22 for Clean Vehicle Technology programs  
23 pursuant to section 724.

24 “(v) 2.0 percent of the number of al-  
25 lowances provided in Column A of the

1 table in section 711(e)(1) shall be allocated  
2 for Clean Fuels programs pursuant to sec-  
3 tion 724.

4 “(C) For vintage years 2017 through  
5 2025, 12.0 percent of the number of allowances  
6 provided in Column A of the table in section  
7 711(e)(1) shall be allocated for clean technology  
8 development and deployment pursuant to sec-  
9 tion 724, with the following suballocations:

10 “(i) 5.0 percent of the number of al-  
11 lowances provided in Column A of the  
12 table in section 711(e)(1) shall be allocated  
13 for carbon capture and storage pursuant to  
14 section 724.

15 “(ii) 2.0 percent of the number of al-  
16 lowances provided in Column A of the  
17 table in section 711(e)(1) shall be allocated  
18 for renewable energy deployment pursuant  
19 to section 724.

20 “(iii) 1.25 percent of the number of  
21 allowances provided in Column A of the  
22 table in section 711(e)(1) shall be allocated  
23 for the smart grid program pursuant to  
24 section 724.

1                   “(iv) 2.5 percent of the number of al-  
2                   lowances provided in Column A of the  
3                   table in section 711(e)(1) shall be allocated  
4                   for Clean Vehicle Technology programs  
5                   pursuant to section 724.

6                   “(v) 1.25 percent of the number of al-  
7                   lowances provided in Column A of the  
8                   table in section 711(e)(1) shall be allocated  
9                   for Clean Fuels programs pursuant to sec-  
10                  tion 724.

11                  “(5) COMMERCIAL AND RESIDENTIAL NATURAL  
12                  GAS SECTOR.—For any year for which local distribu-  
13                  tion companies are required to hold allowances pur-  
14                  suant to section 712(b)(2), 100 percent of the allow-  
15                  ances provided in Column B of the table in section  
16                  711(e)(1) shall be allocated for the commercial and  
17                  residential natural gas sector pursuant to section  
18                  722(c).

19                  “(6) EARLY ACTION CREDIT.—

20                  “(A) For vintage years 2012 and 2013,  
21                  3.0 percent of the allowances provided in Col-  
22                  umn A of the table in section 711(e)(1) shall be  
23                  allocated for early action credit pursuant to sec-  
24                  tion 725.

1           “(B) For vintage years 2014 through  
2           2025, 2.0 percent of the allowances provided in  
3           Column A of the table in section 711(e)(1) shall  
4           be allocated for early action credit pursuant to  
5           section 725.

6           “(7) CONSUMERS AND DEFICIT REDUCTION.—

7           “(A) For vintage years 2012 and 2013,  
8           18.0 percent of the allowances provided in Col-  
9           umn A of the table in section 711(e)(1) shall be  
10          allocated for consumers and deficit reduction  
11          pursuant to section 726, with the following sub-  
12          allocations:

13                 “(i) 10.0 percent of the allowances  
14                 provided in Column A of the table in sec-  
15                 tion 711(e)(1) shall be allocated for Low  
16                 Income Consumer Climate Change Rebates  
17                 pursuant to section 726(a).

18                 “(ii) 8.0 percent of the allowances  
19                 provided in Column A of the table in sec-  
20                 tion 711(e)(1) shall be auctioned and the  
21                 proceeds therefrom shall be deposited into  
22                 the general fund of the Treasury.

23           “(B) For vintage years 2014 through  
24           2025, 16.0 percent of the allowances provided  
25           in Column A of the table in section 711(e)(1)

1 shall be allocated for consumers and deficit re-  
2 duction pursuant to section 726, with the fol-  
3 lowing suballocations:

4 “(i) 10.0 percent of the allowances  
5 provided in Column A of the table in sec-  
6 tion 711(e)(1) shall be allocated for Low  
7 Income Consumer Climate Change Rebates  
8 pursuant to section 726(a).

9 “(ii) 6.0 percent of the allowances  
10 provided in Column A of the table in sec-  
11 tion 711(e)(1) shall be auctioned and the  
12 proceeds therefrom shall be deposited into  
13 the general fund of the Treasury.

14 “(8) **intentionally left blank**

15 “(9) REDUCTION FUND.—

16 “(A) For vintage years 2012 and 2013,  
17 5.0 percent of the number of allowances pro-  
18 vided in Column A of the table in section  
19 711(e)(1) shall be allocated for the supple-  
20 mental greenhouse gas reduction program pur-  
21 suant to section 728.

22 “(B) For vintage years 2014 through  
23 2025, 3.0 percent of the number of allowances  
24 provided in Column A of the table in section  
25 711(e)(1) shall be allocated for the supple-

1           mental greenhouse gas reduction program pur-  
2           suant to section 728.

3           “(10) **【intentionally left blank】**

4           “(11)   CLIMATE   CHANGE   MANAGEMENT  
5           FUND.—For vintage years 2012 through 2025, 0.5  
6           percent of the number of allowances provided in Col-  
7           umn A of the table in section 711(e)(1) shall be allo-  
8           cated for the Climate Change Management Fund for  
9           use under section 731(c).

10          “(b) 2026 AND THEREAFTER.—If Congress does not,  
11         in reauthorizing this title, provide otherwise, the Adminis-  
12         trator shall allocate 100 percent of the allowances with  
13         vintage years 2026 or later for Consumer Climate Change  
14         Rebates pursuant to section 726(b).

15         **“SEC. 721. ALLOCATIONS [OPTION B].**

16          “(a) IN GENERAL.—The Administrator shall allocate  
17         emission allowances with vintage years from 2012 through  
18         2025 as follows:

19                 “(1) ELECTRICITY SECTOR.—

20                         “(A) For vintage years 2012 and 2013,  
21                         49.0 percent of the number of the number of al-  
22                         lowances provided in Column A of the table in  
23                         section 711(e)(1) shall be allocated to the elec-  
24                         tricity sector pursuant to section 722(a).



1           “(B) For vintage years 2014 through  
2           2016, 23.0 percent of the number of allowances  
3           provided in Column A of the table in section  
4           711(e)(1) shall be allocated to the electricity  
5           sector pursuant to section 722(a).

6           “(C) For vintage years 2017 through  
7           2020, 15.5 percent of the number of allowances  
8           provided in Column A of the table in section  
9           711(e)(1) shall be allocated to the electricity  
10          sector pursuant to section 722(a).

11          “(D) For vintage years 2021 through  
12          2025, 7.75 percent of the number of allowances  
13          provided in Column A of the table in section  
14          711(e)(1) shall be allocated to the electricity  
15          sector pursuant to section 722(a).

16          “(2) INDUSTRIAL SECTOR.—

17                 “(A) For vintage years 2012 through  
18                 2025, 0.5 percent of the number of allowances  
19                 provided in Column A of the table in section  
20                 711(e)(1) shall be allocated to stationary  
21                 sources described in section 700(8)(C) pursuant  
22                 to section 722(b)(1).

23                 “(B) For vintage years 2014 through  
24                 2025, 26.25 percent of the number of allow-  
25                 ances provided in Column A of the table in sec-

1           tion 711(e)(1) shall be allocated to covered enti-  
2           ties described in section 700(8)(E), (F), (G),  
3           and (H) pursuant to section 722(b)(2), (3), or  
4           (4).

5           “(3) ENERGY EFFICIENCY.—

6                   “(A) For vintage years 2012 and 2013,  
7                   12.75 percent of the number of allowances pro-  
8                   vided in Column A of the table in section  
9                   711(e)(1) shall be allocated to energy efficiency  
10                  programs pursuant to section 723, with the fol-  
11                  lowing suballocations:

12                           “(i) 6.5 percent of the number of al-  
13                           lowances provided in Column A of the  
14                           table in section 711(e)(1) shall be allocated  
15                           to the State Energy Efficiency Develop-  
16                           ment Fund program.

17                           “(ii) **intentionally left blank**].

18                           “(iii) 3.0 percent of the number of al-  
19                           lowances provided in Column A of the  
20                           table in section 711(e)(1) shall be allocated  
21                           to the State and Local Transportation En-  
22                           ergy Efficiency Program.

23                           “(iv) 0.5 percent of the number of al-  
24                           lowances provided in Column A of the  
25                           table in section 711(e)(1) shall be allocated

1 to Energy Efficiency and Conservation  
2 Block Grants.

3 “(v) 1.25 percent of the number of al-  
4 lowances provided in Column A of the  
5 table in section 711(e)(1) shall be allocated  
6 to Weatherization Assistance Program.

7 “(vi) 0.5 percent of the number of al-  
8 lowances provided in Column A of the  
9 table in section 711(e)(1) shall be allocated  
10 to building programs.

11 “(vii) 0.5 percent of the number of al-  
12 lowances provided in Column A of the  
13 table in section 711(e)(1) shall be allocated  
14 to Energy Sustainability and Efficiency  
15 Grants and Loans for Institutions.

16 “(viii) 0.5 percent of the number of  
17 allowances provided in Column A of the  
18 table in section 711(e)(1) shall be allocated  
19 to waste energy programs.

20 “(B) For vintage years 2014 through  
21 2016, 12.75 percent of the number of allow-  
22 ances provided in Column A of the table in sec-  
23 tion 711(e)(1) shall be allocated to energy effi-  
24 ciency programs pursuant to section 723, with  
25 the following suballocations:

1                   “(i) 6.0 percent of the number of al-  
2                   lowances provided in Column A of the  
3                   table in section 711(e)(1) shall be allocated  
4                   to the State Energy Efficiency Develop-  
5                   ment Fund program.

6                   “(ii) **intentionally left blank**].

7                   “(iii) 4.0 percent of the number of al-  
8                   lowances provided in Column A of the  
9                   table in section 711(e)(1) shall be allocated  
10                  to the State and Local Transportation En-  
11                  ergy Efficiency Program.

12                  “(iv) 0.5 percent of the number of al-  
13                  lowances provided in Column A of the  
14                  table in section 711(e)(1) shall be allocated  
15                  to Energy Efficiency and Conservation  
16                  Block Grants.

17                  “(v) 0.5 percent of the number of al-  
18                  lowances provided in Column A of the  
19                  table in section 711(e)(1) shall be allocated  
20                  to Weatherization Assistance Program.

21                  “(vi) 0.5 percent of the number of al-  
22                  lowances provided in Column A of the  
23                  table in section 711(e)(1) shall be allocated  
24                  to building programs.

1                   “(vii) 0.5 percent of the number of al-  
2                   lowances provided in Column A of the  
3                   table in section 711(e)(1) shall be allocated  
4                   to Energy Sustainability and Efficiency  
5                   Grants and Loans for Institutions.

6                   “(viii) 0.75 percent of the number of  
7                   allowances provided in Column A of the  
8                   table in section 711(e)(1) shall be allocated  
9                   to waste energy programs.

10                  “(C) For vintage years 2017 through  
11                  2020, 12.5 percent of the number of allowances  
12                  provided in Column A of the table in section  
13                  711(e)(1) shall be allocated to energy efficiency  
14                  programs pursuant to section 723, with the fol-  
15                  lowing suballocations:

16                         “(i) 3.0 percent of the number of al-  
17                         lowances provided in Column A of the  
18                         table in section 711(e)(1) shall be allocated  
19                         to the State Energy Efficiency Develop-  
20                         ment Fund program.

21                         “(ii) 2.75 percent of the number of al-  
22                         lowances provided in Column A of the  
23                         table in section 711(e)(1) shall be allocated  
24                         to State Electricity Efficiency Programs  
25                         and State Recycling Programs.

1                   “(iii) 4.0 percent of the number of al-  
2                   lowances provided in Column A of the  
3                   table in section 711(e)(1) shall be allocated  
4                   to the State and Local Transportation En-  
5                   ergy Efficiency Program.

6                   “(iv) 0.5 percent of the number of al-  
7                   lowances provided in Column A of the  
8                   table in section 711(e)(1) shall be allocated  
9                   to Energy Efficiency and Conservation  
10                  Block Grants.

11                  “(v) 0.5 percent of the number of al-  
12                  lowances provided in Column A of the  
13                  table in section 711(e)(1) shall be allocated  
14                  to Weatherization Assistance Program.

15                  “(vi) 0.5 percent of the number of al-  
16                  lowances provided in Column A of the  
17                  table in section 711(e)(1) shall be allocated  
18                  to building programs.

19                  “(vii) 0.5 percent of the number of al-  
20                  lowances provided in Column A of the  
21                  table in section 711(e)(1) shall be allocated  
22                  to Energy Sustainability and Efficiency  
23                  Grants and Loans for Institutions.

24                  “(viii) 0.75 percent of the number of  
25                  allowances provided in Column A of the

1 table in section 711(e)(1) shall be allocated  
2 to waste energy programs.

3 “(D) For vintage years 2021 through  
4 2025, 12.0 percent of the number of allowances  
5 provided in Column A of the table in section  
6 711(e)(1) shall be allocated to energy efficiency  
7 programs pursuant to section 723, with the fol-  
8 lowing suballocations:

9 “(i) **intentionally left blank**】

10 “(ii) 5.25 percent of the number of al-  
11 lowances provided in Column A of the  
12 table in section 711(e)(1) shall be allocated  
13 to State Electricity Efficiency Programs  
14 and State Recycling Programs.

15 “(iii) 4.0 percent of the number of al-  
16 lowances provided in Column A of the  
17 table in section 711(e)(1) shall be allocated  
18 to the State and Local Transportation En-  
19 ergy Efficiency Program.

20 “(iv) 0.5 percent of the number of al-  
21 lowances provided in Column A of the  
22 table in section 711(e)(1) shall be allocated  
23 to Energy Efficiency and Conservation  
24 Block Grants.

1                   “(v) 0.5 percent of the number of al-  
2                   lowances provided in Column A of the  
3                   table in section 711(e)(1) shall be allocated  
4                   to Weatherization Assistance Program.

5                   “(vi) 0.5 percent of the number of al-  
6                   lowances provided in Column A of the  
7                   table in section 711(e)(1) shall be allocated  
8                   to building programs.

9                   “(vii) 0.5 percent of the number of al-  
10                  lowances provided in Column A of the  
11                  table in section 711(e)(1) shall be allocated  
12                  to Energy Sustainability and Efficiency  
13                  Grants and Loans for Institutions.

14                  “(viii) 0.75 percent of the number of  
15                  allowances provided in Column A of the  
16                  table in section 711(e)(1) shall be allocated  
17                  to waste energy programs.

18                  “(4) CLEAN TECHNOLOGY.—

19                  “(A) For vintage years 2012 and 2013,  
20                  10.75 percent of the number of allowances pro-  
21                  vided in Column A of the table in section  
22                  711(e)(1) shall be allocated for clean technology  
23                  development and deployment pursuant to sec-  
24                  tion 724, with the following suballocations:



1                   “(i) 2.0 percent of the number of al-  
2                   lowances provided in Column A of the  
3                   table in section 711(e)(1) shall be allocated  
4                   for carbon capture and storage pursuant to  
5                   section 724.

6                   “(ii) 3.0 percent of the number of al-  
7                   lowances provided in Column A of the  
8                   table in section 711(e)(1) shall be allocated  
9                   for renewable energy deployment pursuant  
10                  to section 724.

11                  “(iii) 0.75 percent of the number of  
12                  allowances provided in Column A of the  
13                  table in section 711(e)(1) shall be allocated  
14                  for the smart grid program pursuant to  
15                  section 724.

16                  “(iv) 3.0 percent of the number of al-  
17                  lowances provided in Column A of the  
18                  table in section 711(e)(1) shall be allocated  
19                  for Clean Vehicle Technology programs  
20                  pursuant to section 724.

21                  “(v) 2.0 percent of the number of al-  
22                  lowances provided in Column A of the  
23                  table in section 711(e)(1) shall be allocated  
24                  for Clean Fuels programs pursuant to sec-  
25                  tion 724.

1           “(B) For vintage years 2014 through  
2           2016, 13.0 percent of the number of allowances  
3           provided in Column A of the table in section  
4           711(e)(1) shall be allocated for clean technology  
5           development and deployment pursuant to sec-  
6           tion 724, with the following suballocations:

7                   “(i) 3.0 percent of the number of al-  
8                   lowances provided in Column A of the  
9                   table in section 711(e)(1) shall be allocated  
10                  for carbon capture and storage pursuant to  
11                  section 724.

12                  “(ii) 3.0 percent of the number of al-  
13                  lowances provided in Column A of the  
14                  table in section 711(e)(1) shall be allocated  
15                  for renewable energy deployment pursuant  
16                  to section 724.

17                  “(iii) 1.25 percent of the number of  
18                  allowances provided in Column A of the  
19                  table in section 711(e)(1) shall be allocated  
20                  for the smart grid program pursuant to  
21                  section 724.

22                  “(iv) 3.75 percent of the number of  
23                  allowances provided in Column A of the  
24                  table in section 711(e)(1) shall be allocated

1 for Clean Vehicle Technology programs  
2 pursuant to section 724.

3 “(v) 2.0 percent of the number of al-  
4 lowances provided in Column A of the  
5 table in section 711(e)(1) shall be allocated  
6 for Clean Fuels programs pursuant to sec-  
7 tion 724.

8 “(C) For vintage years 2017 through  
9 2020, 15.75 percent of the number of allow-  
10 ances provided in Column A of the table in sec-  
11 tion 711(e)(1) shall be allocated for clean tech-  
12 nology development and deployment pursuant  
13 to section 724, with the following suballoca-  
14 tions:

15 “(i) 4.0 percent of the number of al-  
16 lowances provided in Column A of the  
17 table in section 711(e)(1) shall be allocated  
18 for carbon capture and storage pursuant to  
19 section 724.

20 “(ii) 3.5 percent of the number of al-  
21 lowances provided in Column A of the  
22 table in section 711(e)(1) shall be allocated  
23 for renewable energy deployment pursuant  
24 to section 724.

1                   “(iii) 1.25 percent of the number of  
2                   allowances provided in Column A of the  
3                   table in section 711(e)(1) shall be allocated  
4                   for the smart grid program pursuant to  
5                   section 724.

6                   “(iv) 4.0 percent of the number of al-  
7                   lowances provided in Column A of the  
8                   table in section 711(e)(1) shall be allocated  
9                   for Clean Vehicle Technology programs  
10                  pursuant to section 724.

11                  “(v) 3.0 percent of the number of al-  
12                  lowances provided in Column A of the  
13                  table in section 711(e)(1) shall be allocated  
14                  for Clean Fuels programs pursuant to sec-  
15                  tion 724.

16                  “(D) For vintage years 2021 through  
17                  2025, 16.25 percent of the number of allow-  
18                  ances provided in Column A of the table in sec-  
19                  tion 711(e)(1) shall be allocated for clean tech-  
20                  nology development and deployment pursuant  
21                  to section 724, with the following suballoca-  
22                  tions:

23                         “(i) 4.0 percent of the number of al-  
24                         lowances provided in Column A of the  
25                         table in section 711(e)(1) shall be allocated

1 for carbon capture and storage pursuant to  
2 section 724.

3 “(ii) 3.0 percent of the number of al-  
4 lowances provided in Column A of the  
5 table in section 711(e)(1) shall be allocated  
6 for renewable energy deployment pursuant  
7 to section 724.

8 “(iii) 1.25 percent of the number of  
9 allowances provided in Column A of the  
10 table in section 711(e)(1) shall be allocated  
11 for the smart grid program pursuant to  
12 section 724.

13 “(iv) 4.0 percent of the number of al-  
14 lowances provided in Column A of the  
15 table in section 711(e)(1) shall be allocated  
16 for Clean Vehicle Technology programs  
17 pursuant to section 724.

18 “(v) 4.0 percent of the number of al-  
19 lowances provided in Column A of the  
20 table in section 711(e)(1) shall be allocated  
21 for Clean Fuels programs pursuant to sec-  
22 tion 724.

23 “(5) COMMERCIAL AND RESIDENTIAL NATURAL  
24 GAS SECTOR.—For any year for which local distribu-  
25 tion companies are required to hold allowances pur-

1       suant to section 712(b)(2), 100 percent of the allow-  
2       ances provided in Column B of the table in section  
3       711(e)(1) shall be allocated for the commercial and  
4       residential natural gas sector pursuant to section  
5       722(c).

6               “(6) EARLY ACTION CREDIT.—

7               “(A) For vintage years 2012 and 2013,  
8       3.0 percent of the allowances provided in Col-  
9       umn A of the table in section 711(e)(1) shall be  
10      allocated for early action credit pursuant to sec-  
11      tion 725.

12              “(B) For vintage years 2014 through  
13      2025, 2.0 percent of the allowances provided in  
14      Column A of the table in section 711(e)(1) shall  
15      be allocated for early action credit pursuant to  
16      section 725.

17              “(7) CONSUMERS AND DEFICIT REDUCTION.—

18              “(A) For vintage years 2012 and 2013,  
19      18.0 percent of the allowances provided in Col-  
20      umn A of the table in section 711(e)(1) shall be  
21      allocated for consumers and deficit reduction  
22      pursuant to section 726, with the following sub-  
23      allocations:

24                      “(i) 10.0 percent of the allowances  
25                      provided in Column A of the table in sec-

1                   tion 711(e)(1) shall be allocated for Low  
2                   Income Consumer Climate Change Rebates  
3                   pursuant to section 726(a).

4                   “(ii) 8.0 percent of the allowances  
5                   provided in Column A of the table in sec-  
6                   tion 711(e)(1) shall be auctioned and the  
7                   proceeds therefrom shall be deposited into  
8                   the general fund of the Treasury.

9                   “(B) For vintage years 2014 through  
10                  2016, 18.0 percent of the allowances provided  
11                  in Column A of the table in section 711(e)(1)  
12                  shall be allocated for consumers and deficit re-  
13                  duction pursuant to section 726, with the fol-  
14                  lowing suballocations:

15                  “(i) 10.75 percent of the allowances  
16                  provided in Column A of the table in sec-  
17                  tion 711(e)(1) shall be allocated for Low  
18                  Income Consumer Climate Change Rebates  
19                  pursuant to section 726(a).

20                  “(ii) 7.25 percent of the allowances  
21                  provided in Column A of the table in sec-  
22                  tion 711(e)(1) shall be auctioned and the  
23                  proceeds therefrom shall be deposited into  
24                  the general fund of the Treasury.

1           “(C) For vintage years 2017 through  
2           2020, 23.25 percent of the number of allow-  
3           ances provided in Column A of the table in sec-  
4           tion 711(e)(1) shall be allocated for consumers  
5           and deficit reduction pursuant to section 726,  
6           with the following suballocations:

7                   “(i) 11.5 percent of the allowances  
8                   provided in Column A of the table in sec-  
9                   tion 711(e)(1) shall be allocated for Low  
10                  Income Consumer Climate Change Rebates  
11                  pursuant to section 726(a).

12                   “(ii) 5.0 percent of the allowances  
13                   provided in Column A of the table in sec-  
14                   tion 711(e)(1) shall be allocated for the  
15                  Consumer Climate Change Rebate pro-  
16                  gram pursuant to section 726(b).

17                   “(iii) 6.75 percent of the allowances  
18                   provided in Column A of the table in sec-  
19                   tion 711(e)(1) shall be auctioned and the  
20                  proceeds therefrom shall be deposited into  
21                  the general fund of the Treasury.

22           “(D) For vintage years 2021 through  
23           2025, 30.25 percent of the number of allow-  
24           ances provided in Column A of the table in sec-  
25           tion 711(e)(1) shall be allocated for consumers



1 and deficit reduction pursuant to section 726,  
2 with the following suballocations:

3 “(i) 11.0 percent of the allowances  
4 provided in Column A of the table in sec-  
5 tion 711(e)(1) shall be allocated for Low  
6 Income Consumer Climate Change Rebates  
7 pursuant to section 726(a).

8 “(ii) 14.0 percent of the allowances  
9 provided in Column A of the table in sec-  
10 tion 711(e)(1) shall be allocated for the  
11 Consumer Climate Change Rebate pro-  
12 gram pursuant to section 726(b).

13 “(iii) 5.25 percent of the allowances  
14 provided in Column A of the table in sec-  
15 tion 711(e)(1) shall be auctioned and the  
16 proceeds therefrom shall be deposited into  
17 the general fund of the Treasury.

18 “(8) GREEN JOBS TRAINING.—For vintage  
19 years 2012 through 2025, 1.0 percent of the allow-  
20 ances provided in Column A of the table in section  
21 711(e)(1) shall be allocated for worker assistance  
22 pursuant to section 727.

23 “(9) REDUCTION FUND.—

24 “(A) For vintage years 2012 and 2013,  
25 4.5 percent of the allowances provided in Col-

1           umn A of the table in section 711(e)(1) shall be  
2           allocated for the supplemental greenhouse gas  
3           reduction program pursuant to section 728.

4           “(B) For vintage years 2014 through  
5           2025, 3.0 percent of the allowances provided in  
6           Column A of the table in section 711(e)(1) shall  
7           be allocated for the supplemental greenhouse  
8           gas reduction program pursuant to section 728.

9           “(10) **【intentionally left blank】**

10          “(11) CLIMATE CHANGE MANAGEMENT  
11          FUND.—For vintage years 2012 through 2025, 0.5  
12          percent of the number of allowances provided in Col-  
13          umn A of the table in section 711(e)(1) shall be allo-  
14          cated for the Climate Change Management Fund for  
15          use under section 731(c).

16          “(b) 2026 AND THEREAFTER.—If Congress does not,  
17          in reauthorizing this title, provide otherwise, the Adminis-  
18          trator shall allocate 100 percent of the allowances with  
19          vintage years 2026 or later for Consumer Climate Change  
20          Rebates pursuant to section 726(b).

21          **“SEC. 721. ALLOCATIONS [OPTION C].**

22          “(a) IN GENERAL.—The Administrator shall allocate  
23          emission allowances with vintage years from 2012 through  
24          2025 as follows:

25                 “(1) ELECTRICITY SECTOR.—

1           “(A) For vintage years 2012 and 2013,  
2           47.75 percent of the number of the number of  
3           allowances provided in Column A of the table in  
4           section 711(e)(1) shall be allocated to the elec-  
5           tricity sector pursuant to section 722(a).

6           “(B) For vintage years 2014 through  
7           2016, 19.75 percent of the number of allow-  
8           ances provided in Column A of the table in sec-  
9           tion 711(e)(1) shall be allocated to the elec-  
10          tricity sector pursuant to section 722(a).

11          “(C) For vintage years 2017 through  
12          2020, 15.25 percent of the allowances provided  
13          in Column A of the table in section 711(e)(1)  
14          shall be allocated to the electricity sector pursu-  
15          ant to section 722(a).

16          “(D) For vintage years 2021 through  
17          2025, 5.5 percent of the allowances provided in  
18          Column A of the table in section 711(e)(1) shall  
19          be allocated to the electricity sector pursuant to  
20          section 722(a).

21          “(2) INDUSTRIAL SECTOR.—

22                 “(A) For vintage years 2012 through  
23                 2025, 0.5 percent of the number of allowances  
24                 provided in Column A of the table in section  
25                 711(e)(1) shall be allocated to the industrial

1 sector for covered entities described in section  
2 700(8)(C) pursuant to section 722(b).

3 “(B) For vintage years 2014 through  
4 2016, 22.0 percent of the number of allowances  
5 provided in Column A of the table in section  
6 711(e)(1) shall be allocated to the industrial  
7 sector for covered entities described in section  
8 700(8)(E), (F), (G), and (H) pursuant to sec-  
9 tion 722(b).

10 “(C) For vintage years 2017 through  
11 2020, 18 percent of the number of allowances  
12 provided in Column A of the table in section  
13 711(e)(1) shall be allocated to the industrial  
14 sector for covered entities described in section  
15 700(8)(E), (F), (G), and (H) pursuant to sec-  
16 tion 722(b).

17 “(D) For vintage years 2021 through  
18 2025, 16 percent of the number of allowances  
19 provided in Column A of the table in section  
20 711(e)(1) shall be allocated to the industrial  
21 sector for covered entities described in section  
22 700(8)(E), (F), (G), and (H) pursuant to sec-  
23 tion 722(b).

24 “(3) ENERGY EFFICIENCY.—

1           “(A) For vintage years 2012 and 2013,  
2           13.5 percent of the number of allowances pro-  
3           vided in Column A of the table in section  
4           711(e)(1) shall be allocated to energy efficiency  
5           programs pursuant to section 723, with the fol-  
6           lowing suballocations:

7                   “(i) 7.0 percent of the number of al-  
8                   lowances provided in Column A of the  
9                   table in section 711(e)(1) shall be allocated  
10                  to the State Energy Efficiency Develop-  
11                  ment Fund program.

12                   “(ii) 0 percent of the number of allow-  
13                   ances provided in Column A of the table in  
14                   section 711(e)(1) shall be allocated to  
15                   State Electricity Efficiency Programs and  
16                   State Recycling Programs.

17                   “(iii) 3.0 percent of the number of al-  
18                   lowances provided in Column A of the  
19                   table in section 711(e)(1) shall be allocated  
20                   to the State and Local Transportation En-  
21                   ergy Efficiency Program.

22                   “(iv) 0.5 percent of the number of al-  
23                   lowances provided in Column A of the  
24                   table in section 711(e)(1) shall be allocated

1 to Energy Efficiency and Conservation  
2 Block Grants.

3 “(v) 1.5 percent of the number of al-  
4 lowances provided in Column A of the  
5 table in section 711(e)(1) shall be allocated  
6 to Weatherization Assistance Program.

7 “(vi) 0.5 percent of the number of al-  
8 lowances provided in Column A of the  
9 table in section 711(e)(1) shall be allocated  
10 to building programs.

11 “(vii) 0.5 percent of the number of al-  
12 lowances provided in Column A of the  
13 table in section 711(e)(1) shall be allocated  
14 to Energy Sustainability and Efficiency  
15 Grants and Loans for Institutions.

16 “(viii) 0.5 percent of the number of  
17 allowances provided in Column A of the  
18 table in section 711(e)(1) shall be allocated  
19 to waste energy programs.

20 “(B) For vintage years 2014 through  
21 2016, 13.0 percent of the number of allowances  
22 provided in Column A of the table in section  
23 711(e)(1) shall be allocated to energy efficiency  
24 programs pursuant to section 723, with the fol-  
25 lowing suballocations:

1                   “(i) 7.0 percent of the number of al-  
2                   lowances provided in Column A of the  
3                   table in section 711(e)(1) shall be allocated  
4                   to the State Energy Efficiency Develop-  
5                   ment Fund program.

6                   “(ii) **intentionally left blank**].

7                   “(iii) 3.0 percent of the number of al-  
8                   lowances provided in Column A of the  
9                   table in section 711(e)(1) shall be allocated  
10                  to the State and Local Transportation En-  
11                  ergy Efficiency Program.

12                  “(iv) 0.5 percent of the number of al-  
13                  lowances provided in Column A of the  
14                  table in section 711(e)(1) shall be allocated  
15                  to Energy Efficiency and Conservation  
16                  Block Grants.

17                  “(v) 1.0 percent of the number of al-  
18                  lowances provided in Column A of the  
19                  table in section 711(e)(1) shall be allocated  
20                  to Weatherization Assistance Program.

21                  “(vi) 0.5 percent of the number of al-  
22                  lowances provided in Column A of the  
23                  table in section 711(e)(1) shall be allocated  
24                  to building programs.

1                   “(vii) 0.5 percent of the number of al-  
2                   lowances provided in Column A of the  
3                   table in section 711(e)(1) shall be allocated  
4                   to Energy Sustainability and Efficiency  
5                   Grants and Loans for Institutions.

6                   “(viii) 0.5 percent of the number of  
7                   allowances provided in Column A of the  
8                   table in section 711(e)(1) shall be allocated  
9                   to waste energy programs.

10                  “(C) For vintage years 2017 through  
11                  2020, 12.25 percent of the number of allow-  
12                  ances provided in Column A of the table in sec-  
13                  tion 711(e)(1) shall be allocated to energy effi-  
14                  ciency programs pursuant to section 723, with  
15                  the following suballocations:

16                         “(i) 3.0 percent of the number of al-  
17                         lowances provided in Column A of the  
18                         table in section 711(e)(1) shall be allocated  
19                         to the State Energy Efficiency Develop-  
20                         ment Fund program.

21                         “(ii) 3.0 percent of the number of al-  
22                         lowances provided in Column A of the  
23                         table in section 711(e)(1) shall be allocated  
24                         to State Electricity Efficiency Programs  
25                         and State Recycling Programs.



1                   “(iii) 3.0 percent of the number of al-  
2                   lowances provided in Column A of the  
3                   table in section 711(e)(1) shall be allocated  
4                   to the State and Local Transportation En-  
5                   ergy Efficiency Program.

6                   “(iv) 0.5 percent of the number of al-  
7                   lowances provided in Column A of the  
8                   table in section 711(e)(1) shall be allocated  
9                   to Energy Efficiency and Conservation  
10                  Block Grants.

11                  “(v) 0.5 percent of the number of al-  
12                  lowances provided in Column A of the  
13                  table in section 711(e)(1) shall be allocated  
14                  to Weatherization Assistance Program.

15                  “(vi) 0.5 percent of the number of al-  
16                  lowances provided in Column A of the  
17                  table in section 711(e)(1) shall be allocated  
18                  to building programs.

19                  “(vii) 0.5 percent of the number of al-  
20                  lowances provided in Column A of the  
21                  table in section 711(e)(1) shall be allocated  
22                  to Energy Sustainability and Efficiency  
23                  Grants and Loans for Institutions.

24                  “(viii) 0.75 percent of the number of  
25                  allowances provided in Column A of the

1 table in section 711(e)(1) shall be allocated  
2 to waste energy programs.

3 “(D) For vintage years 2021 through  
4 2025, 11.5 percent of the number of allowances  
5 provided in Column A of the table in section  
6 711(e)(1) shall be allocated to energy efficiency  
7 programs pursuant to section 723, with the fol-  
8 lowing suballocations:

9 “(i) [intentionally left blank].

10 “(ii) 5.25 percent of the number of al-  
11 lowances provided in Column A of the  
12 table in section 711(e)(1) shall be allocated  
13 to State Electricity Efficiency Programs  
14 and State Recycling Programs.

15 “(iii) 3.5 percent of the number of al-  
16 lowances provided in Column A of the  
17 table in section 711(e)(1) shall be allocated  
18 to the State and Local Transportation En-  
19 ergy Efficiency Program.

20 “(iv) 0.5 percent of the number of al-  
21 lowances provided in Column A of the  
22 table in section 711(e)(1) shall be allocated  
23 to Energy Efficiency and Conservation  
24 Block Grants.

1                   “(v) 0.5 percent of the number of al-  
2                   lowances provided in Column A of the  
3                   table in section 711(e)(1) shall be allocated  
4                   to Weatherization Assistance Program.

5                   “(vi) 0.5 percent of the number of al-  
6                   lowances provided in Column A of the  
7                   table in section 711(e)(1) shall be allocated  
8                   to building programs.

9                   “(vii) 0.5 percent of the number of al-  
10                  lowances provided in Column A of the  
11                  table in section 711(e)(1) shall be allocated  
12                  to Energy Sustainability and Efficiency  
13                  Grants and Loans for Institutions.

14                  “(viii) 0.75 percent of the number of  
15                  allowances provided in Column A of the  
16                  table in section 711(e)(1) shall be allocated  
17                  to waste energy programs.

18                  “(4) CLEAN TECHNOLOGY.—

19                  “(A) For vintage years 2012 and 2013,  
20                  10.75 percent of the number of allowances pro-  
21                  vided in Column A of the table in section  
22                  711(e)(1) shall be allocated for clean technology  
23                  development and deployment pursuant to sec-  
24                  tion 724, with the following suballocations:

1           “(i) 2.0 percent of the number of al-  
2           lowances provided in Column A of the  
3           table in section 711(e)(1) shall be allocated  
4           for carbon capture and storage pursuant to  
5           section 724.

6           “(ii) 3.0 percent of the number of al-  
7           lowances provided in Column A of the  
8           table in section 711(e)(1) shall be allocated  
9           for renewable energy deployment pursuant  
10          to section 724.

11          “(iii) 0.75 percent of the number of  
12          allowances provided in Column A of the  
13          table in section 711(e)(1) shall be allocated  
14          for the smart grid program pursuant to  
15          section 724.

16          “(iv) 3.0 percent of the number of al-  
17          lowances provided in Column A of the  
18          table in section 711(e)(1) shall be allocated  
19          for Clean Vehicle Technology programs  
20          pursuant to section 724.

21          “(v) 2.0 percent of the number of al-  
22          lowances provided in Column A of the  
23          table in section 711(e)(1) shall be allocated  
24          for Clean Fuels programs pursuant to sec-  
25          tion 724.

1           “(B) For vintage years 2014 through  
2           2016, 13.25 percent of the number of allow-  
3           ances provided in Column A of the table in sec-  
4           tion 711(e)(1) shall be allocated for clean tech-  
5           nology development and deployment pursuant  
6           to section 724, with the following suballoca-  
7           tions:

8                   “(i) 3.0 percent of the number of al-  
9                   lowances provided in Column A of the  
10                  table in section 711(e)(1) shall be allocated  
11                  for carbon capture and storage pursuant to  
12                  section 724.

13                  “(ii) 3.0 percent of the number of al-  
14                  lowances provided in Column A of the  
15                  table in section 711(e)(1) shall be allocated  
16                  for renewable energy deployment pursuant  
17                  to section 724.

18                  “(iii) 1.25 percent of the number of  
19                  allowances provided in Column A of the  
20                  table in section 711(e)(1) shall be allocated  
21                  for the smart grid program pursuant to  
22                  section 724.

23                  “(iv) 4.0 percent of the number of al-  
24                  lowances provided in Column A of the  
25                  table in section 711(e)(1) shall be allocated

1 for Clean Vehicle Technology programs  
2 pursuant to section 724.

3 “(v) 2.0 percent of the number of al-  
4 lowances provided in Column A of the  
5 table in section 711(e)(1) shall be allocated  
6 for Clean Fuels programs pursuant to sec-  
7 tion 724.

8 “(C) For vintage years 2017 through  
9 2020, 15.25 percent of the number of allow-  
10 ances provided in Column A of the table in sec-  
11 tion 711(e)(1) shall be allocated for clean tech-  
12 nology development and deployment pursuant  
13 to section 724, with the following suballoca-  
14 tions:

15 “(i) 4.0 percent of the number of al-  
16 lowances provided in Column A of the  
17 table in section 711(e)(1) shall be allocated  
18 for carbon capture and storage pursuant to  
19 section 724.

20 “(ii) 3.0 percent of the number of al-  
21 lowances provided in Column A of the  
22 table in section 711(e)(1) shall be allocated  
23 for renewable energy deployment pursuant  
24 to section 724.

1           “(iii) 1.25 percent of the number of  
2           allowances provided in Column A of the  
3           table in section 711(e)(1) shall be allocated  
4           for the smart grid program pursuant to  
5           section 724.

6           “(iv) 4.0 percent of the number of al-  
7           lowances provided in Column A of the  
8           table in section 711(e)(1) shall be allocated  
9           for Clean Vehicle Technology programs  
10          pursuant to section 724.

11          “(v) 3.0 percent of the number of al-  
12          lowances provided in Column A of the  
13          table in section 711(e)(1) shall be allocated  
14          for Clean Fuels programs pursuant to sec-  
15          tion 724.

16          “(D) For vintage years 2021 through  
17          2025, 16.25 percent of the number of allow-  
18          ances provided in Column A of the table in sec-  
19          tion 711(e)(1) shall be allocated for clean tech-  
20          nology development and deployment pursuant  
21          to section 724, with the following suballoca-  
22          tions:

23                 “(i) 4.0 percent of the number of al-  
24                 lowances provided in Column A of the  
25                 table in section 711(e)(1) shall be allocated

1 for carbon capture and storage pursuant to  
2 section 724.

3 “(ii) 3.0 percent of the number of al-  
4 lowances provided in Column A of the  
5 table in section 711(e)(1) shall be allocated  
6 for renewable energy deployment pursuant  
7 to section 724.

8 “(iii) 1.25 percent of the number of  
9 allowances provided in Column A of the  
10 table in section 711(e)(1) shall be allocated  
11 for the smart grid program pursuant to  
12 section 724.

13 “(iv) 4.0 percent of the number of al-  
14 lowances provided in Column A of the  
15 table in section 711(e)(1) shall be allocated  
16 for Clean Vehicle Technology programs  
17 pursuant to section 724.

18 “(v) 4.0 percent of the number of al-  
19 lowances provided in Column A of the  
20 table in section 711(e)(1) shall be allocated  
21 for Clean Fuels programs pursuant to sec-  
22 tion 724.

23 “(5) COMMERCIAL AND RESIDENTIAL NATURAL  
24 GAS SECTOR.—For any year for which local distribu-  
25 tion companies are required to hold allowances pur-



1 suant to section 712(b)(2), 100 percent of the allow-  
2 ances provided in Column B of the table in section  
3 711(e)(1) shall be allocated for the commercial and  
4 residential natural gas sector pursuant to section  
5 722(c).

6 “(6) EARLY ACTION CREDIT.—

7 “(A) For vintage years 2012 and 2013,  
8 3.0 percent of the allowances provided in Col-  
9 umn A of the table in section 711(e)(1) shall be  
10 allocated for early action credit pursuant to sec-  
11 tion 725.

12 “(B) For vintage years 2014 through  
13 2025, 2.0 percent of the allowances provided in  
14 Column A of the table in section 711(e)(1) shall  
15 be allocated for early action credit pursuant to  
16 section 725.

17 “(7) CONSUMERS AND DEFICIT REDUCTION.—

18 “(A) For vintage years 2012 and 2013,  
19 18.0 percent of the allowances provided in Col-  
20 umn A of the table in section 711(e)(1) shall be  
21 allocated for consumers and deficit reduction  
22 pursuant to section 726, with the following sub-  
23 allocations:

24 “(i) 10.0 percent of the allowances  
25 provided in Column A of the table in sec-

1                   tion 711(e)(1) shall be allocated for Low  
2                   Income Consumer Climate Change Rebates  
3                   pursuant to section 726(a).

4                   “(ii) 8.0 percent of the allowances  
5                   provided in Column A of the table in sec-  
6                   tion 711(e)(1) shall be auctioned and the  
7                   proceeds therefrom shall be deposited into  
8                   the general fund of the Treasury.

9                   “(B) For vintage years 2014 through  
10                  2016, 19.75 percent of the allowances provided  
11                  in Column A of the table in section 711(e)(1)  
12                  shall be allocated for consumers and deficit re-  
13                  duction pursuant to section 726, with the fol-  
14                  lowing suballocations:

15                  “(i) 11.0 percent of the allowances  
16                  provided in Column A of the table in sec-  
17                  tion 711(e)(1) shall be allocated for Low  
18                  Income Consumer Climate Change Rebates  
19                  pursuant to section 726(a).

20                  “(ii) 8.75 percent of the allowances  
21                  provided in Column A of the table in sec-  
22                  tion 711(e)(1) shall be auctioned and the  
23                  proceeds therefrom shall be deposited into  
24                  the general fund of the Treasury.

1           “(C) For vintage years 2017 through  
2 2020, 21.25 percent of the number of allow-  
3 ances provided in Column A of the table in sec-  
4 tion 711(e)(1) shall be allocated for consumers  
5 and deficit reduction pursuant to section 726,  
6 with the following suballocations:

7           “(i) 12.0 percent of the allowances  
8 provided in Column A of the table in sec-  
9 tion 711(e)(1) shall be allocated for Low  
10 Income Consumer Climate Change Rebates  
11 pursuant to section 726(a).

12           “(ii) 9.25 percent of the allowances  
13 provided in Column A of the table in sec-  
14 tion 711(e)(1) shall be auctioned and the  
15 proceeds therefrom shall be deposited into  
16 the general fund of the Treasury.

17           “(D) For vintage years 2021 through  
18 2025, 24.0 percent of the number of allowances  
19 provided in Column A of the table in section  
20 711(e)(1) shall be allocated for consumers and  
21 deficit reduction pursuant to section 726, with  
22 the following suballocations:

23           “(i) 13.0 percent of the allowances  
24 provided in Column A of the table in sec-  
25 tion 711(e)(1) shall be allocated for Low

1           Income Consumer Climate Change Rebates  
2           pursuant to section 726(a).

3                   “(ii) 11.0 percent of the allowances  
4                   provided in Column A of the table in sec-  
5                   tion 711(e)(1) shall be auctioned and the  
6                   proceeds therefrom shall be deposited into  
7                   the general fund of the Treasury.

8                   “(8) GREEN JOBS TRAINING.—For vintage  
9                   years 2012 through 2025, 1.0 percent of the allow-  
10                   ances provided in Column A of the table in section  
11                   711(e)(1) shall be allocated for worker assistance  
12                   pursuant to section 727.

13                   “(9) REDUCTION FUND.—

14                           “(A) For vintage years 2012 and 2013,  
15                           4.5 percent of the allowances provided in Col-  
16                           umn A of the table in section 711(e)(1) shall be  
17                           allocated for the supplemental greenhouse gas  
18                           reduction program pursuant to section 728.

19                           “(B) For vintage years 2014 through  
20                           2025, 3.0 percent of the allowances provided in  
21                           Column A of the table in section 711(e)(1) shall  
22                           be allocated for the supplemental greenhouse  
23                           gas reduction program pursuant to section 728.

24                   “(10) ADAPTATION FUND.—

1           “(A) For vintage years 2014 through  
2           2016, 3.0 percent of the allowances provided in  
3           Column A of the table in section 711(e)(1) shall  
4           be allocated for domestic adaptation and 2.0  
5           percent for international purposes pursuant to  
6           section 729.

7           “(B) For vintage years 2017 through  
8           2020, 7.0 percent of the allowances provided in  
9           Column A of the table in section 711(e)(1) shall  
10          be allocated for domestic adaptation and 3.5  
11          percent for international purposes pursuant to  
12          section 729.

13          “(C) For vintage years 2021 through  
14          2025, 12.5 percent of the number of allowances  
15          provided in Column A of the table in section  
16          711(e)(1) shall be allocated for domestic adap-  
17          tation and 7.5 percent for international pur-  
18          poses pursuant to section 729.

19          “(11) CLIMATE CHANGE MANAGEMENT  
20          FUND.—For vintage years 2012 through 2025, 0.5  
21          percent of the number of allowances provided in Col-  
22          umn A of the table in section 711(e)(1) shall be allo-  
23          cated for the Climate Change Management Fund for  
24          use under section 731(c).

1 “(b) 2026 AND THEREAFTER.—If Congress does not,  
2 in reauthorizing this title, provide otherwise, the Adminis-  
3 trator shall allocate 100 percent of the allowances with  
4 vintage years 2026 or later for Consumer Climate Change  
5 Rebates pursuant to section 726(b).

6 **“SEC. 721. ALLOCATIONS [OPTION D].**

7 “(a) IN GENERAL.—The Administrator shall allocate  
8 emission allowances for vintage years 2012 through 2025  
9 as follows:

10 “(1) [intentionally left blank]

11 “(2) [intentionally left blank]

12 “(3) ENERGY EFFICIENCY.—

13 “(A) For vintage years 2012 and 2013,  
14 13.5 percent of the number of allowances pro-  
15 vided in Column A of the table in section  
16 711(e)(1) shall be allocated to energy efficiency  
17 programs pursuant to section 723, with the fol-  
18 lowing suballocations:

19 “(i) 7.0 percent of the number of al-  
20 lowances provided in Column A of the  
21 table in section 711(e)(1) shall be allocated  
22 to the State Energy Efficiency Develop-  
23 ment Fund program.

24 “(ii) 0 percent of the number of allow-  
25 ances provided in Column A of the table in

1 section 711(e)(1) shall be allocated to  
2 State Electricity Efficiency Programs and  
3 State Recycling Programs.

4 “(iii) 3.0 percent of the number of al-  
5 lowances provided in Column A of the  
6 table in section 711(e)(1) shall be allocated  
7 to the State and Local Transportation En-  
8 ergy Efficiency Program.

9 “(iv) 0.5 percent of the number of al-  
10 lowances provided in Column A of the  
11 table in section 711(e)(1) shall be allocated  
12 to Energy Efficiency and Conservation  
13 Block Grants.

14 “(v) 1.5 percent of the number of al-  
15 lowances provided in Column A of the  
16 table in section 711(e)(1) shall be allocated  
17 to Weatherization Assistance Program.

18 “(vi) 0.5 percent of the number of al-  
19 lowances provided in Column A of the  
20 table in section 711(e)(1) shall be allocated  
21 to building programs.

22 “(vii) 0.5 percent of the number of al-  
23 lowances provided in Column A of the  
24 table in section 711(e)(1) shall be allocated

1 to Energy Sustainability and Efficiency  
2 Grants and Loans for Institutions.

3 “(viii) 0.5 percent of the number of  
4 allowances provided in Column A of the  
5 table in section 711(e)(1) shall be allocated  
6 to waste energy programs.

7 “(B) For vintage years 2014 through  
8 2016, 10.5 percent of the number of allowances  
9 provided in Column A of the table in section  
10 711(e)(1) shall be allocated to energy efficiency  
11 programs pursuant to section 723, with the fol-  
12 lowing suballocations:

13 “(i) 5.0 percent of the number of al-  
14 lowances provided in Column A of the  
15 table in section 711(e)(1) shall be allocated  
16 to the State Energy Efficiency Develop-  
17 ment Fund program.

18 “(ii) 0 percent of the number of allow-  
19 ances provided in Column A of the table in  
20 section 711(e)(1) shall be allocated to  
21 State Electricity Efficiency Programs  
22 State Recycling Programs.

23 “(iii) 3.0 percent of the number of al-  
24 lowances provided in Column A of the  
25 table in section 711(e)(1) shall be allocated



1 to the State and Local Transportation En-  
2 ergy Efficiency Program.

3 “(iv) 0.5 percent of the number of al-  
4 lowances provided in Column A of the  
5 table in section 711(e)(1) shall be allocated  
6 to Energy Efficiency and Conservation  
7 Block Grants.

8 “(v) 0.5 percent of the number of al-  
9 lowances provided in Column A of the  
10 table in section 711(e)(1) shall be allocated  
11 to Weatherization Assistance Program.

12 “(vi) 0.5 percent of the number of al-  
13 lowances provided in Column A of the  
14 table in section 711(e)(1) shall be allocated  
15 to building programs.

16 “(vii) 0.5 percent of the number of al-  
17 lowances provided in Column A of the  
18 table in section 711(e)(1) shall be allocated  
19 to Energy Sustainability and Efficiency  
20 Grants and Loans for Institutions.

21 “(viii) 0.5 percent of the number of  
22 allowances provided in Column A of the  
23 table in section 711(e)(1) shall be allocated  
24 to waste energy programs.

1           “(C) For vintage years 2017 through  
2           2025, 9.5 percent of the number of allowances  
3           provided in Column A of the table in section  
4           711(e)(1) shall be allocated to energy efficiency  
5           programs pursuant to section 723, with the fol-  
6           lowing suballocations:

7                   “(i) **intentionally left blank**”.

8                   “(ii) 4.0 percent of the number of al-  
9                   lowances provided in Column A of the  
10                  table in section 711(e)(1) shall be allocated  
11                  to State Electricity Efficiency Programs  
12                  and State Recycling Programs.

13                  “(iii) 3.0 percent of the number of al-  
14                  lowances provided in Column A of the  
15                  table in section 711(e)(1) shall be allocated  
16                  to the State and Local Transportation En-  
17                  ergy Efficiency Program.

18                  “(iv) 0.5 percent of the number of al-  
19                  lowances provided in Column A of the  
20                  table in section 711(e)(1) shall be allocated  
21                  to Energy Efficiency and Conservation  
22                  Block Grants.

23                  “(v) 0.5 percent of the number of al-  
24                  lowances provided in Column A of the

1 table in section 711(e)(1) shall be allocated  
2 to Weatherization Assistance Program.

3 “(vi) 0.5 percent of the number of al-  
4 lowances provided in Column A of the  
5 table in section 711(e)(1) shall be allocated  
6 to building programs.

7 “(vii) 0.5 percent of the number of al-  
8 lowances provided in Column A of the  
9 table in section 711(e)(1) shall be allocated  
10 to Energy Sustainability and Efficiency  
11 Grants and Loans for Institutions.

12 “(viii) 0.5 percent of the number of  
13 allowances provided in Column A of the  
14 table in section 711(e)(1) shall be allocated  
15 to waste energy programs.

16 “(4) CLEAN TECHNOLOGY.—

17 “(A) For vintage years 2012 and 2013,  
18 10.75 percent of the number of allowances pro-  
19 vided in Column A of the table in section  
20 711(e)(1) shall be allocated for clean technology  
21 development and deployment pursuant to sec-  
22 tion 724, with the following suballocations:

23 “(i) 2.0 percent of the number of al-  
24 lowances provided in Column A of the  
25 table in section 711(e)(1) shall be allocated

1 for carbon capture and storage pursuant to  
2 section 724.

3 “(ii) 3.0 percent of the number of al-  
4 lowances provided in Column A of the  
5 table in section 711(e)(1) shall be allocated  
6 for renewable energy deployment pursuant  
7 to section 724.

8 “(iii) 0.75 percent of the number of  
9 allowances provided in Column A of the  
10 table in section 711(e)(1) shall be allocated  
11 for the smart grid program pursuant to  
12 section 724.

13 “(iv) 3.0 percent of the number of al-  
14 lowances provided in Column A of the  
15 table in section 711(e)(1) shall be allocated  
16 for Clean Vehicle Technology programs  
17 pursuant to section 724.

18 “(v) 2.0 percent of the number of al-  
19 lowances provided in Column A of the  
20 table in section 711(e)(1) shall be allocated  
21 for Clean Fuels programs pursuant to sec-  
22 tion 724.

23 “(B) For vintage years 2014 through  
24 2016, 11.0 percent of the number of allowances  
25 provided in Column A of the table in section

1           711(e)(1) shall be allocated for clean technology  
2           development and deployment pursuant to sec-  
3           tion 724, with the following suballocations:

4                   “(i) 2.0 percent of the number of al-  
5                   lowances provided in Column A of the  
6                   table in section 711(e)(1) shall be allocated  
7                   for carbon capture and storage pursuant to  
8                   section 724.

9                   “(ii) 2.75 percent of the number of al-  
10                  lowances provided in Column A of the  
11                  table in section 711(e)(1) shall be allocated  
12                  for renewable energy deployment pursuant  
13                  to section 724.

14                  “(iii) 0.75 percent of the number of  
15                  allowances provided in Column A of the  
16                  table in section 711(e)(1) shall be allocated  
17                  for the smart grid program pursuant to  
18                  section 724.

19                  “(iv) 3.5 percent of the number of al-  
20                  lowances provided in Column A of the  
21                  table in section 711(e)(1) shall be allocated  
22                  for Clean Vehicle Technology programs  
23                  pursuant to section 724.

24                  “(v) 2.0 percent of the number of al-  
25                  lowances provided in Column A of the

1 table in section 711(e)(1) shall be allocated  
2 for Clean Fuels programs pursuant to sec-  
3 tion 724.

4 “(C) For vintage years 2017 through  
5 2025, 12.0 percent of the number of allowances  
6 provided in Column A of the table in section  
7 711(e)(1) shall be allocated for clean technology  
8 development and deployment pursuant to sec-  
9 tion 724, with the following suballocations:

10 “(i) 5.0 percent of the number of al-  
11 lowances provided in Column A of the  
12 table in section 711(e)(1) shall be allocated  
13 for carbon capture and storage pursuant to  
14 section 724.

15 “(ii) 2.0 percent of the number of al-  
16 lowances provided in Column A of the  
17 table in section 711(e)(1) shall be allocated  
18 for renewable energy deployment pursuant  
19 to section 724.

20 “(iii) 1.25 percent of the number of  
21 allowances provided in Column A of the  
22 table in section 711(e)(1) shall be allocated  
23 for the smart grid program pursuant to  
24 section 724.

1                   “(iv) 2.5 percent of the number of al-  
2                   lowances provided in Column A of the  
3                   table in section 711(e)(1) shall be allocated  
4                   for Clean Vehicle Technology programs  
5                   pursuant to section 724.

6                   “(v) 1.25 percent of the number of al-  
7                   lowances provided in Column A of the  
8                   table in section 711(e)(1) shall be allocated  
9                   for Clean Fuels programs pursuant to sec-  
10                  tion 724.

11                  “(5) **intentionally left blank**”

12                  “(6) EARLY ACTION CREDIT.—

13                         “(A) For vintage years 2012 and 2013,  
14                         3.0 percent of the allowances provided in Col-  
15                         umn A of the table in section 711(e)(1) shall be  
16                         allocated for early action credit pursuant to sec-  
17                         tion 725.

18                         “(B) For vintage years 2014 through  
19                         2025, 2.0 percent of the allowances provided in  
20                         Column A of the table in section 711(e)(1) shall  
21                         be allocated for early action credit pursuant to  
22                         section 725.

23                  “(7) CONSUMERS AND DEFICIT REDUCTION.—

24                         “(A) For vintage years 2012 and 2013, all  
25                         of the allowances provided in Column A of the

1 table in section 711(e)(1) and not specifically  
2 allocated under this subsection shall be allo-  
3 cated for consumers and deficit reduction pur-  
4 suant to section 726, with the following sub-  
5 allocations:

6 “(i) 5 percent of the allowances pro-  
7 vided in Column A of the table in section  
8 711(e)(1) shall be allocated for the Low  
9 Income Consumer Climate Change Rebates  
10 pursuant to section 726(a).

11 “(ii) 45 percent of allowances pro-  
12 vided in Column A of the table in section  
13 711(e)(1) shall be for the Consumer Cli-  
14 mate Change Rebate program pursuant to  
15 section 726(b).

16 “(iii) The remaining allowances shall  
17 be auctioned and the proceeds therefrom  
18 shall be deposited in the general fund of  
19 the Treasury.

20 “(B) For vintage years 2014 through  
21 2025, all of the allowances provided in Column  
22 A of the table in section 711(e)(1) and not spe-  
23 cifically allocated under this subsection shall be  
24 allocated by the Administrator for consumers  
25 and deficit reduction.



1           “(i) 5 percent of the allowances pro-  
2           vided in Column A of the table in section  
3           711(e)(1) shall be for the Low Income  
4           Consumer Climate Change Rebates pursu-  
5           ant to section 726(a).

6           “(ii) 50 percent of allowances pro-  
7           vided in Column A of the table in section  
8           711(e)(1) shall be for the Consumer Cli-  
9           mate Change Rebate program pursuant to  
10          section 726(b).

11          “(iii) The remaining allowances shall  
12          be auctioned and the proceeds therefrom  
13          shall be deposited in the general fund of  
14          the Treasury.

15          “(8) **[intentionally left blank]**

16          “(9) REDUCTION FUND.—

17                 “(A) For vintage years 2012 and 2013,  
18                 5.0 percent of the number of allowances pro-  
19                 vided in Column A of the table in section  
20                 711(e)(1) shall be allocated for the supple-  
21                 mental greenhouse gas reduction program pur-  
22                 suant to section 728.

23                 “(B) For vintage years 2014 through  
24                 2025, 3.0 percent of the number of allowances  
25                 provided in Column A of the table in section

1           711(e)(1) shall be allocated for the supple-  
2           mental greenhouse gas reduction program pur-  
3           suant to section 728.

4           “(10) **【intentionally left blank】**

5           “(11) CLIMATE CHANGE MANAGEMENT  
6           FUND.—For vintage years 2012 through 2025, 0.5  
7           percent of the number of allowances provided in Col-  
8           umn A of the table in section 711(e)(1) shall be allo-  
9           cated for the Climate Change Management Fund for  
10          use under section 731(c).

11          “(b) 2026 AND THEREAFTER.—If Congress does not,  
12          in reauthorizing this title, provide otherwise, the Adminis-  
13          trator shall allocate 100 percent of the allowances with  
14          vintage years 2026 or later for Consumer Climate Change  
15          Rebates pursuant to section 726(b).

16          **“SEC. 722. COVERED SECTORS.**

17          “(a) ELECTRICITY SECTOR.—

18                  “(1) ELECTRIC DISTRIBUTION UTILITIES.—

19                          “(A) DEFINITION.—For purposes of this  
20                          subsection, the term ‘electric distribution utility’  
21                          means an electric utility that has a legal, regu-  
22                          latory, or contractual obligation to deliver elec-  
23                          tricity directly to retail consumers, regardless of  
24                          whether that entity or another entity sells the

1 electricity as a commodity to those retail con-  
2 sumers.

3 “(B) ALLOCATION.—No later than Novem-  
4 ber of each calendar year, the Administrator  
5 shall allocate for distribution to electric dis-  
6 tribution utilities an amount of emission allow-  
7 ances for the following vintage year equal to the  
8 product of 0.90 times the sum of the following:

9 “(i) the total number of emission al-  
10 lowances available to the electricity sector  
11 under section 721(a)(1), minus

12 “(ii) the number of emission allow-  
13 ances of the same vintage year that are  
14 provided under paragraph (4).

15 “(C) DISTRIBUTION.—The Administrator  
16 shall distribute the emission allowances allo-  
17 cated under this paragraph among individual  
18 electric distribution utilities ratably based on  
19 each electric distribution utility’s annual aver-  
20 age carbon dioxide emissions for 1997 through  
21 1999, unless the owner or operator of the util-  
22 ity selects 3 other years between 1997 and  
23 2007, inclusive, and timely notifies the Admin-  
24 istrator of its selection.

1           “(D) USE OF ALLOWANCES.—Each electric  
2 distribution utility receiving emissions allow-  
3 ances under this subsection shall submit a plan  
4 to the Administrator on how it intends to use  
5 the emission allowances and a subsequent re-  
6 port on how the allowances were actually used.

7           “(E) ADJUSTMENT.—One year after popu-  
8 lation numbers are released from each decennial  
9 census, the Administrator shall adjust the dis-  
10 tribution formula under subparagraph (C) to  
11 reflect relative population changes in each elec-  
12 tric distribution utility’s service area since the  
13 last decennial census was released.

14           “(F) RATEPAYERS.—(i) Emission allow-  
15 ances distributed to electric distribution utilities  
16 shall be used for the benefit of ratepayers. Use  
17 for the benefit of ratepayers shall include using  
18 emission allowances for programs to improve  
19 energy efficiency or otherwise reduce the quan-  
20 tity of energy consumed or carbon dioxide emit-  
21 ted.

22           “(ii) No electric distribution utility may  
23 use emission allowances to provide to any con-  
24 sumer a rebate that is based solely on the quan-  
25 tity of electricity used.

1           “(G) TREATMENT OF PROCEEDS.—Proceeds  
2           from the sale of an emission allowance by an electric  
3           distribution utility shall not be considered to be in-  
4           come for tax purposes of an electric distribution util-  
5           ity if the value of the proceeds is fully disbursed to  
6           ratepayers during the 1-year period beginning on the  
7           date of the sale of the emission allowance.

8           “(2) MERCHANT COAL GENERATORS.—

9           “(A) DEFINITION.—For purposes of this  
10           subsection, the term ‘merchant coal generator’  
11           means a generator that uses coal to produce  
12           electricity primarily for sale to others but that  
13           is not affiliated with or regulated as an electric  
14           utility and that is not entitled to receive allow-  
15           ances under paragraph (4) of this subsection.

16           “(B) ALLOCATION.—No later than Novem-  
17           ber of each calendar year, the Administrator  
18           shall allocate for distribution to merchant coal  
19           generators an amount of emission allowances  
20           for the following vintage year equal to 0.10  
21           times the sum of the following:

22                   “(i) the total number of emission al-  
23                   lowances available to the electricity sector  
24                   under section 721(a), minus

1                   “(ii) the number of emission allow-  
2                   ances of the same vintage year that are  
3                   provided under paragraph (4).

4                   “(C) DISTRIBUTION.—The Administrator  
5                   shall distribute the emission allowances allo-  
6                   cated under this paragraph among individual  
7                   merchant coal generators ratably based on each  
8                   generator’s annual average carbon dioxide emis-  
9                   sions for 1997 through 1999, unless the owner  
10                  or operator of the generator selects 3 other  
11                  years between 1997 and 2007, inclusive, and  
12                  timely notifies the Administrator of its selec-  
13                  tion.

14                 “(3) WITHHELD ALLOWANCES.—Notwith-  
15                 standing paragraphs (1) and (2) the Administrator  
16                 shall withhold from distribution to electric distribu-  
17                 tion utilities and merchant coal generators a number  
18                 of emission allowances equal to 105 percent of the  
19                 emission allowances the Administrator anticipates  
20                 will be distributed to independent power producers  
21                 under paragraph (4). If not required to distribute all  
22                 of these withheld allowances to the independent  
23                 power producers, the Administrator shall distribute  
24                 any remaining emission allowances to the electric

1 distribution utilities and merchant coal generators in  
2 accordance with paragraphs (1) and (2).

3 “(4) GENERATORS WITH LONG TERM PUBLIC  
4 POWER PURCHASE AGREEMENTS.—

5 “(A) DEFINITION.—For purposes of this  
6 subsection, the term ‘independent power pro-  
7 ducer’ means a qualifying small power produc-  
8 tion facility or a qualifying cogeneration facility  
9 (within the meaning of section 3(17)(C) or  
10 3(18)(B) of the Federal Power Act), an exempt  
11 wholesale generator (within the meaning of sec-  
12 tion 3(25) of the Federal Power Act), or a new  
13 independent power production facility (within  
14 the meaning of section 405 of this Act) which  
15 is—

16 “(i) a covered entity;

17 “(ii) as of the commencement of oper-  
18 ation, a facility consisting of one or more  
19 units with total installed net output capac-  
20 ity (in MWe) of no more than **[130 per-**  
21 **cent]** of the facility’s total planned net  
22 output capacity (in MWe); and

23 “(iii) as of the date of enactment of  
24 this title, a facility with a power sales  
25 agreement executed before January 1,

1                   2007, that governs the facility’s electricity  
2                   sales, covers at least **【50 percent】** of the  
3                   facility’s total planned net output capacity  
4                   (in MWe), and provides for sales at a price  
5                   (whether a fixed price or a price formula)  
6                   for electricity that does not allow for recov-  
7                   ery of the costs of compliance with the lim-  
8                   itation on greenhouse gas emissions under  
9                   this title.

10                   “(B) DISTRIBUTION.—Not later than April  
11                   2 (or a later date established by the Adminis-  
12                   trator) of 2013 and each calendar year through  
13                   2026, the Administrator shall distribute to the  
14                   owners and operators of independent power pro-  
15                   ducers the number of emission allowances of  
16                   that vintage year that are equal to the tons of  
17                   carbon dioxide emitted as a result of the inde-  
18                   pendent power purchase agreement referred to  
19                   in subparagraph (A)(iii).

20                   “(C) DURATION.—Notwithstanding sub-  
21                   paragraph (A), an independent power producer  
22                   shall cease to be eligible to receive allocations  
23                   under this paragraph upon the earliest of the  
24                   following dates:



1           “(i) The date when the facility no  
2 longer qualifies as a qualifying small power  
3 production facility or a qualifying cogen-  
4 eration facility (within the meaning of sec-  
5 tion 3(17)(C) or 3(18)(B) of the Federal  
6 Power Act), an exempt wholesale generator  
7 (within the meaning of section 3(25) of the  
8 Federal Power Act), or a new independent  
9 power production facility (within the mean-  
10 ing of section 405 of this Act).

11           “(ii) The date when the facility no  
12 longer meets the total installed net output  
13 capacity criterion required to be met as of  
14 the commencement of operation in the def-  
15 inition of independent power producer.

16           “(iii) The date when the power pur-  
17 chase agreement referred to in subpara-  
18 graph (A)(iii)—

19                   “(I) expires;

20                   “(II) is terminated; or

21                   “(III) is amended in any way  
22 that changes the location of the facil-  
23 ity, the price (whether a fixed price or  
24 price formula) for electricity sold  
25 under such agreement, the percentage

1 of the facility's total planned net out-  
2 put capacity (in MWe) that is covered  
3 by the price under the agreement, or  
4 the expiration or termination date of  
5 the agreement.

6 “(D) ELIGIBILITY.—To be eligible to re-  
7 ceive allowance distributions under this para-  
8 graph, an independent power producer shall  
9 submit each of the following in writing to the  
10 Administrator within 180 days after the date of  
11 enactment of this title:

12 “(i) A certificate of representation de-  
13 scribed in section 700(10).

14 “(ii) An identification of each owner  
15 and each operator of the facility.

16 “(iii) An identification of the units at  
17 the facility and the location of the facility.

18 “(iv) A written certification by the  
19 designated representative that the facility  
20 meets all the requirements of the definition  
21 of independent power producer.

22 “(v) The expiration date of the power  
23 sales agreement referred to in subpara-  
24 graph (A)(iii).

1                   “(vi) A copy of the power sales agree-  
2                   ment referred to in subparagraph (A)(iii).

3                   “(E) NOTIFICATION.—Not later than 30  
4                   days after a facility loses, in accordance with  
5                   subparagraph (D), its eligibility for emission al-  
6                   lowances allocated pursuant to this paragraph,  
7                   the designated representative of such facility  
8                   shall notify the Administrator in writing when,  
9                   and on what basis, the facility lost its eligibility  
10                  for emission allowances.

11               “(b) INDUSTRIAL SECTOR.—

12                   “(1) FLUORINATED GAS PRODUCERS AND IM-  
13                  PORTERS.—

14                   “(A) ALLOCATION.—Not later than No-  
15                  vember of each calendar year, the Adminis-  
16                  trator shall allocate for distribution to owners  
17                  or operators of covered entities described in sec-  
18                  tion 700(8)(C) the amount of emission allow-  
19                  ances specified in section 721(a)(2) for such  
20                  covered entities for the following vintage year.

21                   “(B) DISTRIBUTION.—The Administrator  
22                  shall distribute emission allowances under this  
23                  paragraph pro rata to each covered entity de-  
24                  scribed in section 700(8)(C) based on the enti-  
25                  ty’s annual average production or import for

1 sale or distribution in interstate commerce of  
2 the greenhouse gases listed in section  
3 700(8)(C). The annual average production shall  
4 be based on the three calendar years preceding  
5 the year of the distribution, and shall be meas-  
6 ured in tons of carbon dioxide equivalent.

7 “(2) INDUSTRIAL STATIONARY SOURCES.—

8 “(A) ALLOCATION.—Not later than No-  
9 vember of each calendar year, the Adminis-  
10 trator shall allocate for distribution to owners  
11 or operators of covered entities described in sec-  
12 tion 700(8)(E), (F), and (G) an amount of  
13 emission allowances for the following vintage  
14 year equal to the product of—

15 “(i) the total number of allowances  
16 available to the industrial sector under sec-  
17 tion 721(a)(2) for that vintage year; and

18 “(ii) **[0.73 for allocation Option A;**  
19 **0.40 for allocation Options B and C]**.

20 “(B) DISTRIBUTION.—The Administrator  
21 shall allocate emission allowances under this  
22 paragraph pro rata to owners and operators of  
23 individual covered entities described in section  
24 700(8)(E), (F), or (G) based on each entity’s

1 direct emissions and production as determined  
2 by the product of—

3 “(i) the covered entity’s average an-  
4 nual production output for the two cal-  
5 endar years preceding the distribution; and

6 “(ii) 85 percent of the average green-  
7 house gas intensity (measured in tons of  
8 carbon dioxide equivalent emitted per unit  
9 of production) for facilities in the sector or  
10 subsector, as determined by the Adminis-  
11 trator every five years.

12 “(C) BEST PRACTICES.—The Adminis-  
13 trator shall, instead of using the portion of the  
14 formula under subparagraph (B)(ii), substitute  
15 the average greenhouse gas intensity of facili-  
16 ties in the sector or subsector that follow best  
17 practices for reducing greenhouse gas intensity,  
18 if best practice information is available, com-  
19 plete, and reliable for a given sector or sub-  
20 sector.

21 “(D) SEPARATE SUBSECTORS.—For pur-  
22 poses of this paragraph and paragraph (3), the  
23 Administrator shall treat as different subsec-  
24 tors—

1           “(i) integrated iron and steelmaking  
2           technologies (including coke ovens, blast  
3           furnaces, and other iron-making tech-  
4           nologies); and

5           “(ii) electric arc technologies.

6           “(3) SUPPLEMENTAL DISTRIBUTION [AP-  
7           PLIES ONLY TO ALLOCATION OPTIONS B  
8           AND C].—

9           “(A) APPLICABILITY TO ENTITIES.—This  
10          paragraph shall apply to—

11          “(i) covered entities described in sec-  
12          tion 700(8)(E), (F), and (G); and

13          “(ii) entities that—

14                 “(I) are not covered entities; and

15                 “(II) are in the iron, steel, pulp,  
16                 paper, cement, rubber, basic chemi-  
17                 cals, glass, industrial ceramics, or alu-  
18                 minum or other nonferrous metals in-  
19                 dustrial sectors or subsectors.

20          “(B) DISTRIBUTION.—Not later than No-  
21          vember of each calendar year, the Adminis-  
22          trator shall distribute to entities described in  
23          subparagraph (A) of this paragraph an amount  
24          of emission allowances for the following vintage  
25          year equal to the product of—

1           “(i) the total number of emission al-  
2           lowances available to covered entities de-  
3           scribed in section 700(8)(E), (F), (G), and  
4           (H) under section 721(a)(2); and

5           “(ii) 0.45 **【**for allocation Options B  
6           and C**】**.

7           “(C) DISTRIBUTION.—The Administrator  
8           shall allocate emission allowances under this  
9           paragraph pro rata to owners and operators of  
10          entities described in subparagraph (A) of this  
11          paragraph based on each entity’s production  
12          and indirect emissions as determined by the  
13          product of—

14           “(i) the entity’s average production  
15           output for the two years preceding the dis-  
16           tribution;

17           “(ii) the average greenhouse gas in-  
18           tensity of the electricity purchased by the  
19           facility for the two years preceding the dis-  
20           tribution, as determined pursuant to sub-  
21           paragraph (D) of this paragraph; and

22           “(iii) 85 percent of the average  
23           amount of electricity (in kilowatt hours)  
24           used per unit of production for all facilities

1 in the sector or subsector, as determined  
2 by the Administrator every five years.

3 “(D) GREENHOUSE GAS INTENSITY.—For  
4 purposes of subparagraph (C)(iii), greenhouse  
5 gas intensity shall be—

6 “(i) in regulated electricity markets,  
7 the average tons of carbon dioxide equiva-  
8 lent emitted per kilowatt hour based on re-  
9 ports that the Administrator shall require  
10 electricity generators to provide to owners  
11 or operators of entities described in sub-  
12 paragraph (A) of this paragraph; or

13 “(ii) in unregulated electricity mar-  
14 kets, the average tons of carbon dioxide  
15 equivalent emitted per kilowatt hour of the  
16 marginal source of supply of electricity  
17 purchased by the facility based on reports  
18 that the Administrator shall require elec-  
19 tricity generators to provide to owners or  
20 operators of entities described in subpara-  
21 graph (A) of this paragraph.

22 “(E) BEST PRACTICES.—The Adminis-  
23 trator shall, instead of using the portion of the  
24 formula under subparagraph (C)(iii), substitute  
25 the average amount of electricity used per unit



1 of production by facilities in the sector or sub-  
2 sector that follow best practices for reducing  
3 electricity usage, if best practice information is  
4 available, complete, and reliable for a given sec-  
5 tor or subsector.

6 “(4) FOSSIL FUEL-FIRED COMBUSTION DE-  
7 VICES.—

8 “(A) ALLOCATION.—Not later than No-  
9 vember of each calendar year, the Adminis-  
10 trator shall allocate for distribution to owners  
11 or operators of covered entities described in sec-  
12 tion 700(8)(H) an amount of emission allow-  
13 ances for the following vintage year equal to the  
14 product of—

15 “(i) the total number of emission al-  
16 lowances available to the industrial sector  
17 under section 721(a)(2); and

18 “(ii) **[0.27 for allocation Option A;**  
19 **0.15 for allocation Options B and C]**.

20 “(B) DISTRIBUTION.—The Administrator  
21 shall distribute emission allowances under this  
22 paragraph pro rata to each covered entity de-  
23 scribed in section 700(8)(H) based on **[the en-**  
24 **tity’s annual direct emissions and production]**.

1           “(5) INITIAL YEARS OF OPERATION.—The Ad-  
2           ministrators shall issue regulations governing the dis-  
3           tribution of emission allowances for the first and  
4           second years of operation of a facility entitled to  
5           emission allowances under this subsection. These  
6           regulations shall provide for—

7                   “(A) the distribution of emission allow-  
8                   ances to such facilities based on comparable fa-  
9                   cilities in the same sector or subsector; and

10                   “(B) an adjustment in the third year of  
11                   operation to reconcile the total quantity of  
12                   emission allowances received during the first  
13                   and second years of operation to the quantity  
14                   the facility would have received during the first  
15                   and second years of operation had the appro-  
16                   priate data been available.

17           “(6) CESSATION OF QUALIFYING ACTIVITIES.—  
18           If a facility or entity ceases the activities that qual-  
19           ify it for receiving emission allowances under this  
20           subsection—

21                   “(A) the Administrator shall not distribute  
22                   emission allowances for that facility or entity  
23                   under this subsection; and

24                   “(B) the facility or entity shall return to  
25                   the Administrator all allowances that have been

1 distributed to it for future vintage years and  
2 the number of emission allowances equal to the  
3 product of—

4 “(i) the number of emission allow-  
5 ances distributed to the facility or entity  
6 under this subsection for the vintage year  
7 in which the facility or entity ceases the  
8 activities that qualify it for receiving allow-  
9 ances; and

10 “(ii) one-twelfth of the number of  
11 months that the facility or entity engages  
12 in qualifying activities.

13 “(7) MODIFICATION OF DISTRIBUTION.—【AP-  
14 PLIES ONLY TO ALLOCATION OPTIONS B  
15 AND C:】If the President determines that other  
16 countries have taken actions that have substantially  
17 mitigated the risk that companies in a particular  
18 sector or subsector will reduce existing, or not ini-  
19 tiate new, production in the United States due to  
20 the costs of complying with this title, then the Ad-  
21 ministrator shall by rule reduce or eliminate the  
22 amount of emission allowances distributed under this  
23 subsection to reflect the reduced risk. No reduction  
24 under this paragraph shall be effective before Janu-  
25 ary 1, 2020.

1           “(c) COMMERCIAL AND RESIDENTIAL NATURAL GAS  
2 SECTOR.—

3           “(1) ALLOCATION.—No later than November of  
4 2016 or 2020, whichever year precedes by 2 years  
5 the first year in which local distribution companies  
6 are required to hold emission allowances pursuant to  
7 section 712, and every calendar year thereafter  
8 through 2024, the Administrator shall allocate for  
9 distribution to local distribution companies the emis-  
10 sion allowances available under section 721(a)(5) for  
11 the vintage year following the year of such distribu-  
12 tion.

13           “(2) DISTRIBUTION.—The Administrator shall  
14 distribute allowances under this subsection ratably  
15 to individual local distribution companies based on  
16 each company’s annual average delivery of natural  
17 gas to commercial and residential users for 1997  
18 through 1999, unless the company selects 3 other  
19 years between 1997 and 2007, inclusive, and timely  
20 notifies the Administrator of its selection.

21           “(3) ADJUSTMENT.—One year after population  
22 numbers are released from each decennial census,  
23 the Administrator shall adjust the distribution for-  
24 mula under paragraph (2) to reflect relative popu-  
25 lation changes in each local distribution company’s

1 service area since the last decennial census was re-  
2 leased.

3 **“SEC. 723. ENERGY EFFICIENCY.**

4 “(a) STATE EFFICIENCY PROGRAMS.—

5 “(1) STATE ENERGY EFFICIENCY DEVELOP-  
6 MENT FUND PROGRAMS.—Not later than October  
7 31, 2011, and each calendar year thereafter through  
8 2017, the Administrator shall distribute the emission  
9 allowances for the following vintage year that are al-  
10 located, pursuant to section 721(a)(3), to States for  
11 State Energy Efficiency Development Fund pro-  
12 grams according to section 501(c) of the \_\_\_\_\_  
13 Act of 2008.

14 “(2) STATE ELECTRICITY EFFICIENCY AND RE-  
15 CYCLING PROGRAMS.—Not later than October 31,  
16 2016 **【2018 for allocation Options B and C】**, and  
17 each calendar year thereafter through 2024, the Ad-  
18 ministrator shall distribute—

19 “(A)  $\frac{7}{8}$  of the emission allowances for the  
20 following vintage year that are allocated, pursu-  
21 ant to section 721(a)(3), to States for State  
22 electricity efficiency programs for distribution  
23 according to section 551 of the \_\_\_\_\_ Act  
24 of 2008; and

1           “(B)  $\frac{1}{8}$  of the emission allowances for the  
2 following vintage year that are allocated, pursu-  
3 ant to section 721(a)(3), to States for State re-  
4 cycling programs according to section 553 of  
5 the \_\_\_\_\_ Act of 2008.

6           “(3) STATE AND LOCAL TRANSPORTATION EF-  
7 FICIENCY.—Not later than October 31, 2011, and  
8 each calendar year thereafter through 2024, the Ad-  
9 ministrator shall distribute the emission allowances  
10 for the following vintage year that are allocated,  
11 pursuant to section 721(a)(3) to State and local en-  
12 tities for State and local transportation energy effi-  
13 ciency programs for distribution according to section  
14 552 of the \_\_\_\_\_ Act of 2008.

15           “(b) ENERGY EFFICIENCY AND CONSERVATION  
16 BLOCK GRANTS.—

17           “(1) IN GENERAL.—Not later than October 31  
18 of 2011 and each calendar year thereafter through  
19 2024, the Administrator shall distribute the fol-  
20 lowing vintage year’s emission allowances for the  
21 Energy Efficiency and Conservation Block Grants  
22 (under subtitle E of title V of the Energy Independ-  
23 ence and Security Act of 2007 (42 U.S.C. 17151 et  
24 seq.)) according to the formula published for that  
25 year by the Secretary of Energy under section

1 543(e) of the Energy Independence and Security Act  
2 of 2007.

3 “(2) REQUIREMENTS.—The requirements and  
4 limitations provided in sections 544 and 545 of the  
5 Energy Independence and Security Act of 2007 shall  
6 apply to emission allowance recipients and the use of  
7 emission allowances to the same extent as they apply  
8 to grant recipients and use of grants under those  
9 sections.

10 “(3) ALLOCATION FORMULA.—Not later than  
11 90 days before the beginning of each fiscal year for  
12 which emission allowances are allocated for Energy  
13 Efficiency and Conservation Block Grants under  
14 paragraph (1), but for which grants are not provided  
15 under subtitle E of title V of the Energy Independ-  
16 ence and Security Act of 2007 (42 U.S.C. 17151 et  
17 seq.), the Secretary of Energy shall publish in the  
18 Federal Register the formulas for allocation estab-  
19 lished under section 543 of the Energy Independ-  
20 ence and Security Act of 2007.

21 “(c) WEATHERIZATION ASSISTANCE PROGRAM.—

22 “(1) IN GENERAL.—Not later than October 1,  
23 2011, and every calendar year thereafter through  
24 2024, the Administrator shall auction, pursuant to  
25 section 730, the allowances for the following vintage

1 year that are allocated to the Weatherization Assist-  
2 ance Program by section 721(a)(3) and place the  
3 proceeds from the sale of those allowances into the  
4 National Energy Efficiency Fund. Funds so depos-  
5 ited shall be available for expenditure, without fur-  
6 ther appropriation or fiscal year limitation.

7 “(2) USE OF FUNDS.—The Secretary of Energy  
8 shall use the funds placed in the National Energy  
9 Efficiency Fund under paragraph (1) for the Weath-  
10 erization Assistance Program under section 422 of  
11 the Energy Conservation and Production Act (42  
12 U.S.C. 6872).

13 “(d) BUILDINGS.—

14 “(1) IN GENERAL.—Not later than October 1,  
15 2011, and every calendar year thereafter through  
16 2024, the Administrator shall auction, pursuant to  
17 section 730, the allowances for the following vintage  
18 year that are allocated to building programs by sec-  
19 tion 721(a)(3) and place the proceeds from the sale  
20 of those allowances into the National Energy Effi-  
21 ciency Fund. Funds so deposited shall be available  
22 for expenditure, without further appropriation or fis-  
23 cal year limitation.



1           “(2) USE OF FUNDS.—Of the funds placed in  
2           the National Energy Efficiency Fund under para-  
3           graph (1), the Secretary of Energy shall use—

4                   “(A) 20 percent for building programs  
5                   under section 512 of the \_\_\_\_\_ Act of 2008;

6                   “(B) 60 percent for building programs  
7                   under section 513 of the \_\_\_\_\_ Act of 2008;  
8                   and

9                   “(C) 20 percent for building programs  
10                  under section 514 of the \_\_\_\_\_ Act of 2008.

11          “(e) ENERGY SUSTAINABILITY AND EFFICIENCY  
12          GRANTS AND LOANS FOR INSTITUTIONS.—

13               “(1) IN GENERAL.—Not later than October 1,  
14               2011, and every calendar year thereafter through  
15               2024, the Administrator shall auction, pursuant to  
16               section 730, the allowances for the following vintage  
17               year that are allocated to the Energy Sustainability  
18               and Efficiency Grants and Loans for Institutions  
19               program by section 721(a)(3) and place the proceeds  
20               from the sale of those allowances into the National  
21               Energy Efficiency Fund. Funds so deposited shall be  
22               available for expenditure, without further appropria-  
23               tion or fiscal year limitation.

24               “(2) USE OF FUNDS.—The Secretary of Energy  
25               shall use the funds placed in the National Energy

1 Efficiency Fund under paragraph (1) for the Energy  
2 Sustainability and Efficiency Grants and Loans for  
3 Institutions program established under section 399A  
4 of the Energy Policy and Conservation Act (42  
5 U.S.C. 6371h-1).

6 “(f) WASTE ENERGY PROGRAMS.—

7 “(1) IN GENERAL.—Not later than October 1,  
8 2011, and every calendar year thereafter through  
9 2024, the Administrator shall auction, pursuant to  
10 section 730, the allowances for the following vintage  
11 year that are allocated to waste energy programs by  
12 section 721(a)(3) and place the proceeds from the  
13 sale of those allowances into the National Energy  
14 Efficiency Fund. Funds so deposited shall be avail-  
15 able for expenditure, without further appropriation  
16 or fiscal year limitation.

17 “(2) WASTE ENERGY RECOVERY INCENTIVE  
18 GRANT PROGRAM.—The Secretary of Energy shall  
19 use 50 percent of the funds placed in the National  
20 Energy Efficiency Fund under paragraph (1) for the  
21 Waste Energy Recovery Incentive Grant Program  
22 under sections 373 and 374 of Energy Policy and  
23 Conservation Act (42 U.S.C. 6343 and 6344).

24 “(3) ELECTRIC AND THERMAL ENERGY EFFI-  
25 CIENCY PROGRAMS.—The Secretary of Energy shall

1 use 50 percent of the funds placed in the National  
2 Energy Efficiency Fund under paragraph (1) for  
3 distribution, as provided in section 542 of the  
4 \_\_\_\_\_ Act of 2008, for electric and thermal en-  
5 ergy efficiency programs.

6 **“SEC. 724. CLEAN TECHNOLOGY DEPLOYMENT.**

7 “(a) CARBON CAPTURE AND SEQUESTRATION IN-  
8 CENTIVES FOR ELECTRICITY SOURCES.—

9 “(1) ALLOCATION.—Not later than October 31,  
10 2011, and every calendar year thereafter through  
11 2024, the Administrator shall allocate for distribu-  
12 tion to the Electricity Carbon Capture and Seques-  
13 tration Bonus Allowance Account established under  
14 paragraph (2)(B) 75 percent of the allowances avail-  
15 able for carbon capture and sequestration under sec-  
16 tion 721(a)(4).

17 “(2) IN GENERAL.—Not later than 1 year after  
18 the date of enactment of this title, the Administrator  
19 shall—

20 “(A) promulgate regulations for the dis-  
21 tribution of allowances under this subsection;  
22 and

23 “(B) establish an account to be known as  
24 the ‘Electricity Carbon Capture and Sequestra-  
25 tion Bonus Allowance Account’ for carbon cap-

1           ture and sequestration projects in the United  
2           States that capture and sequester greenhouse  
3           gases from electricity sources.

4           “(3) DEFINITION.—In this section the term  
5           ‘new entrant’ means a utility unit that begins oper-  
6           ation after the date of enactment of this title.

7           “(4) ELIGIBILITY CRITERIA.—To be eligible to  
8           receive emission allowances under this subsection, a  
9           carbon capture and sequestration project shall—

10                   “(A) comply with regulations promulgated  
11                   under paragraph (2), including a requirement,  
12                   as prescribed in paragraph (5), for an annual  
13                   emission performance standard for carbon diox-  
14                   ide emissions from any electricity source unit;

15                   “(B) sequester in a certified geologic se-  
16                   questration site carbon dioxide captured from  
17                   any electricity source;

18                   “(C) have begun operation during the pe-  
19                   riod beginning on January 1, 2008, and ending  
20                   on December 31, 2035;

21                   “(D) have a rated capacity of 250  
22                   megawatts or more; and

23                   “(E) not receive other Federal or State fi-  
24                   nancial incentives, including loans, loan guaran-  
25                   tees, grants, or tax credits.

1           “(5) EMISSION PERFORMANCE STANDARDS.—  
2           Subject to paragraph (6), a carbon capture and se-  
3           questration project shall be eligible to receive emis-  
4           sion allowances under this subsection only if the  
5           project achieves 1 of the following emission perform-  
6           ance standards for limiting carbon dioxide emissions  
7           from the electricity source:

8                   “(A) An electricity source that is not a  
9                   new entrant and that commences operation of  
10                  carbon capture and sequestration equipment be-  
11                  fore January 1, 2016, shall—

12                           “(i) treat at least the amount of flue  
13                           gas equivalent to 100 megawatts of the  
14                           output of the electricity source; and

15                           “(ii) be designed to capture and se-  
16                           quester at least 85 percent of the carbon  
17                           dioxide in that flue gas.

18                   “(B) A utility unit that is not a new en-  
19                   trant and that commences operation of carbon  
20                   capture and sequestration equipment on or  
21                   after January 1, 2016, shall achieve an average  
22                   annual emission rate of not more than 1,200  
23                   pounds of carbon dioxide per megawatt-hour of  
24                   net electricity generation, after subtracting the

1 carbon dioxide that is captured and seques-  
2 tered.

3 “(C) A utility unit that is a new entrant  
4 shall achieve an average annual emission rate of  
5 not more than 500 pounds of carbon dioxide  
6 per megawatt-hour of net electricity generation,  
7 after subtracting the carbon dioxide that is cap-  
8 tured and sequestered.

9 “(6) ADJUSTMENT OF PERFORMANCE STAND-  
10 ARDS.—

11 “(A) IN GENERAL.—The Administrator  
12 may adjust the emission performance standard  
13 for a carbon capture and sequestration project  
14 described in paragraph (5) for a utility unit  
15 that uses different ranks of coal in significant  
16 quantities.

17 “(B) REQUIREMENT.—In any case de-  
18 scribed in subparagraph (A), the performance  
19 standard for the project shall prescribe an an-  
20 nual emission rate that requires the project to  
21 achieve an equivalent reduction from uncon-  
22 trolled carbon dioxide emissions levels from the  
23 use of other ranks of coal or petroleum coke, as  
24 compared to the emission rate that the project

1 would have achieved if that unit had combusted  
2 only bituminous coal during the particular year.

3 “(7) DISTRIBUTION.—

4 “(A) The Administrator shall distribute  
5 emission allowances from the Bonus Allowance  
6 Account established under paragraph (2) to  
7 each eligible project under paragraph (4) in a  
8 quantity equal to the quotient obtained by di-  
9 viding—

10 “(i) the product obtained by multi-  
11 plying—

12 “(I) the number of metric tons of  
13 carbon dioxide emissions avoided  
14 through capture and geological se-  
15 questration of emissions by the  
16 project, as determined in accordance  
17 with paragraph (8); and

18 “(II) a bonus allowance value,  
19 pursuant to subparagraph (B); by

20 “(ii) the average value of an emission  
21 allowance during the preceding year.

22 “(B) BONUS ALLOWANCE VALUES.—

23 “(i) For the first 3 gigawatts of  
24 projects, measured in cumulative gener-

1           ating capacity, the bonus allowance value  
2           shall be \$90.

3           “(ii) For the second 3 gigawatts of  
4           projects, measured in cumulative gener-  
5           ating capacity, the bonus allowance value  
6           shall be \$70.

7           “(iii) For any subsequent projects, the  
8           bonus allowance value shall be \$50.

9           “(8) AVOIDED CARBON DIOXIDE EMISSIONS.—  
10          Not later than one year after the date of enactment  
11          of this title, the Administrator shall promulgate  
12          rules establishing a methodology for determining the  
13          number of metric tons of carbon dioxide avoided.

14          “(9) REDUCTION OF BONUS ALLOWANCE.—For  
15          a carbon capture and sequestration project seques-  
16          tering in a geological formation for purposes of en-  
17          hanced oil recovery, the Administrator shall by regu-  
18          lation reduce the bonus allowance value set forth in  
19          paragraph (7)(B) to reflect the lower net cost of the  
20          project when compared to sequestration into geologi-  
21          cal formations solely for purposes of sequestration.

22          “(10) LIMITATION.—

23                 “(A) A qualifying project may receive an-  
24                 nual emission allowances under this subsection  
25                 only for—



1 “(i) the first 10 years of operation; or

2 “(ii) if the unit covered by the quali-  
3 fying project began operating before Janu-  
4 ary 1, 2012, the period of calendar years  
5 2012 through 2026.

6 “(B) No greater than 60 gigawatts of total  
7 cumulative generating capacity may be funded  
8 by this subsection.

9 “(11) EXHAUSTION OF ACCOUNT AND SURPLUS  
10 ALLOWANCES.—

11 “(A) In distributing bonus allowances  
12 under this subsection, the Administrator shall  
13 ensure that qualifying projects receiving allow-  
14 ances receive distributions for 10 years.

15 “(B) If the Administrator determines that  
16 the allowances remaining in the Bonus Allow-  
17 ance Account established under paragraph  
18 (2)(B) will be exhausted once the estimated full  
19 10-year distributions will be provided to current  
20 eligible participants, the Administrator shall  
21 cease providing funds to new eligible projects.

22 “(C) Any allowances that, at the end of a  
23 year, have not been distributed under this sub-  
24 section shall be rolled over into the next year’s  
25 account.

1           “(b) CARBON CAPTURE AND SEQUESTRATION IN-  
2 CENTIVES FOR INDUSTRIAL SOURCES.—

3           “(1) ALLOCATION.—Not later than October 31,  
4 2011, and every calendar year thereafter through  
5 2024, the Administrator shall allocate for distribu-  
6 tion to the Industrial Carbon Capture and Seques-  
7 tration Bonus Allowance Account established under  
8 paragraph (2)(B) 25 percent of the allowances avail-  
9 able for carbon capture and sequestration under sec-  
10 tion 721(a)(4).

11           “(2) IN GENERAL.—Not later than 2 years  
12 after the date of enactment of this title, the Admin-  
13 istrator shall—

14           “(A) promulgate regulations for the dis-  
15 tribution of allowances under this subsection;  
16 and

17           “(B) establish an account to be known as  
18 the ‘Industrial Carbon Capture and Sequestra-  
19 tion Bonus Allowance Account’ for carbon cap-  
20 ture and sequestration projects in the United  
21 States that capture and sequester greenhouse  
22 gases from industrial sources.

23           “(3) ELIGIBILITY CRITERIA.—To be eligible to  
24 receive emission allowances under this subsection, a  
25 carbon capture and sequestration project shall—

1           “(A) comply with regulations promulgated  
2           under paragraph (2);

3           “(B) sequester in a certified geologic se-  
4           questration site at least 85 percent of total car-  
5           bon dioxide emissions produced at an industrial  
6           source; and

7           “(C) not receive other Federal or State fi-  
8           nancial incentives, including loans, loan guaran-  
9           tees, grants, or tax credits.

10          “(4) LEVEL OF ASSISTANCE AND DISTRIBUTION.—  
11

12           “(A) The level of assistance provided to  
13           owners or operators of eligible industrial  
14           sources under this subsection shall be no great-  
15           er than is necessary to permit recovery of rea-  
16           sonable incremental capital and operating costs  
17           of the project that are specifically attributable  
18           to implementation of carbon capture and se-  
19           questration, taking into account the reduced  
20           cost of compliance with section 712 and any re-  
21           duction in net cost from enhanced oil recovery  
22           operations. For purposes of this subparagraph,  
23           reasonable incremental capital and operating  
24           costs shall be determined based on the most  
25           cost-effective reasonably available technology for

1 capturing and sequestering carbon dioxide emis-  
2 sions, taking into account the location and type  
3 of industrial source.

4 “(B) The regulations developed under  
5 paragraph (2) shall establish objective criteria  
6 for the selection of projects, in the event that  
7 there are more applicants that meet the eligi-  
8 bility criteria in paragraph (3) than can be  
9 funded. Such criteria shall, at minimum—

10 “(i) give preference to projects that  
11 most cost-effectively capture and sequester  
12 carbon dioxide, so as to maximize the ton-  
13 nage of carbon dioxide sequestered per dol-  
14 lar of assistance provided; and

15 “(ii) seek to ensure funding for  
16 projects representing a diverse range of  
17 technologies and geographic regions.

18 “(5) LIMITATION.—A qualifying project may  
19 receive annual emission allowances under this sub-  
20 section only for the first 5 years of operation.

21 “(6) EXHAUSTION OF ACCOUNT AND SURPLUS  
22 ALLOWANCES.—

23 “(A) In distributing bonus allowances  
24 under this subsection, the Administrator shall

1 ensure that qualifying projects receiving allow-  
2 ances receive distributions for 5 years.

3 “(B) If the Administrator determines that  
4 the allowances remaining in the Bonus Allow-  
5 ance Account established under paragraph  
6 (2)(B) will be exhausted once the estimated full  
7 5-year distributions will be provided to current  
8 eligible participants, the Administrator shall  
9 cease providing funds to new eligible projects.

10 “(C) Any allowances that, at the end of a  
11 year, have not been distributed under this sub-  
12 section shall be rolled over into the next year’s  
13 account.

14 “(c) INCENTIVES FOR RENEWABLE ENERGY DE-  
15 PLOYMENT.—

16 “(1) ALLOCATION.—Not later than October 31,  
17 2011, and every calendar year thereafter through  
18 2024, the Administrator shall allocate for distribu-  
19 tion to the Renewable Energy Bonus Allowance Ac-  
20 count established under paragraph (2)(B) 100 per-  
21 cent of the allowances available for renewable energy  
22 deployment under section 721(a)(4).

23 “(2) IN GENERAL.—Not later than 1 year after  
24 the date of enactment of this title, the Administrator  
25 shall—

1           “(A) promulgate regulations for the dis-  
2           tribution of allowances under this subsection;  
3           and

4           “(B) establish an account to be known as  
5           the ‘Renewable Energy Bonus Allowance Ac-  
6           count’ for renewable energy projects in the  
7           United States.

8           “(3) QUALIFYING PROJECTS.—To qualify to re-  
9           ceive emission allowances under this subsection, a  
10          renewable energy project shall be shall be a program  
11          for electricity generation at a facility from solar,  
12          wind, geothermal energy, ocean energy (including  
13          tidal, wave, current, and thermal) or biomass (as de-  
14          fined section 203(b)(1) of the Energy Policy Act of  
15          2005) that commences operations after the date of  
16          enactment of this title.

17          “(4) DISTRIBUTION.—For each calendar year  
18          the Administrator shall distribute emissions allow-  
19          ances from the Bonus Allowance Account established  
20          under paragraph (2)(B) to each qualifying renewable  
21          energy project in an amount equal to 1 emission al-  
22          lowance for each 2 delivered megawatt hours of elec-  
23          tricity from renewable generation from a qualifying  
24          renewable energy project.

1           “(5) LIMITATION.—A qualifying project may  
2 receive annual emission allowances under this sub-  
3 section only for the first 10 years of operation.

4           “(6) EXHAUSTION OF ACCOUNT AND SURPLUS  
5 ALLOWANCES.—

6           “(A) In distributing bonus allowances  
7 under this subsection, the Administrator shall  
8 ensure that qualifying projects receiving allow-  
9 ances receive distributions for 10 years.

10           “(B) If the Administrator determines that  
11 the allowances remaining in the Bonus Allow-  
12 ance Account established under paragraph  
13 (2)(B) will be exhausted once the estimated full  
14 10-year distributions will be provided to current  
15 eligible participants, the Administrator shall  
16 cease providing funds to new eligible projects.

17           “(C) Any allowances that, at the end of a  
18 year, have not been distributed under this sub-  
19 section shall be rolled over into the next year’s  
20 account.

21           “(d) SMART GRID PROGRAM.—

22           “(1) IN GENERAL.—Not later than October 1,  
23 2011, and every calendar year thereafter through  
24 2024, the Administrator shall auction, pursuant to  
25 section 730, the allowances for the following vintage

1 year that are allocated to the smart grid program by  
2 section 721(a)(4) and place the proceeds from the  
3 sale of those allowances into the Low Carbon Tech-  
4 nology Fund established under section 731(a).  
5 Funds so deposited shall be available for expendi-  
6 ture, without further appropriation or fiscal year  
7 limitation.

8 “(2) USE OF FUNDS.—The Secretary of Energy  
9 shall use the funds placed in the Low Carbon Tech-  
10 nology Fund under paragraph (1) for the Smart  
11 Grid Investment Matching Grant Program author-  
12 ized under section 1306 of the Energy Independence  
13 and Security Act of 2007 (42 U.S.C. 17386).

14 “(e) CLEAN VEHICLE TECHNOLOGY PROGRAMS.—

15 “(1) IN GENERAL.—Not later than October 1,  
16 2011, and every calendar year thereafter through  
17 2024, the Administrator shall auction, pursuant to  
18 section 730, the emission allowances for the fol-  
19 lowing vintage year that are allocated to the Clean  
20 Vehicle Technology programs by section 721(a)(4)  
21 and place the proceeds from the sale of those allow-  
22 ances into the Low Carbon Technology Fund estab-  
23 lished under section 731(a). Funds so deposited  
24 shall be available for expenditure, without further  
25 appropriation or fiscal year limitation.



1           “(2) ADVANCED TECHNOLOGY VEHICLE PRO-  
2           GRAM.—

3           “(A) IN GENERAL.—The Secretary of En-  
4           ergy shall use  $\frac{1}{3}$  of the funds placed in the  
5           Low Carbon Technology Fund under paragraph  
6           (1) to carry out the Advanced Technology Vehi-  
7           cle Program.

8           “(B) DEFINITIONS.—In this paragraph:

9           “(i) ADVANCED TECHNOLOGY VEHI-  
10          CLE.—The term ‘advanced technology vehi-  
11          cle’ means a light duty vehicle that—

12                   “(I) meets the applicable emis-  
13                   sion standard established in regula-  
14                   tions issued by the Administrator  
15                   under this Act (42 U.S.C. 7521); and

16                   “(II) meets one or more of the  
17                   following criteria—

18                           “(aa) at least 125 percent of  
19                           the 2005 model year baseline  
20                           combined fuel economy, as estab-  
21                           lished in accordance with section  
22                           32902 of title 49, United States  
23                           Code, for such vehicles that have  
24                           one or more substantially similar  
25                           attributes such as vehicle inertia

1 weight class, as defined in section  
2 30B(b)(2)(C) of the Internal  
3 Revenue Code of 1986 (26  
4 U.S.C. 30B(b)(2)(C));

5 “(bb) at least 125 percent of  
6 the fuel economy values set forth  
7 in section 30B(b)(2)(B) of the  
8 Internal Revenue Code of 1986  
9 (26 U.S.C. 30B(b)(2)(B)) for the  
10 corresponding vehicle inertia  
11 weight class, as defined in section  
12 30B(b)(2)(C) of such Code, and  
13 vehicle type; and

14 “(cc) a lifetime fuel savings  
15 with respect to such vehicle,  
16 using the formula in the defini-  
17 tion of lifetime fuel savings in  
18 section 30B(c)(4) of the Internal  
19 Revenue Code of 1986 (26  
20 U.S.C. 30B(c)(4)), that would be  
21 sufficient to meet the numerical  
22 criteria for a conservation credit  
23 as determined by comparison  
24 with the table in section  
25 30B(c)(2)(B) of such Code.

1 “(ii) COMBINED FUEL ECONOMY.—

2 The term ‘combined fuel economy’  
3 means—

4 “(I) the combined city/highway  
5 miles per gallon values, as reported in  
6 accordance with section 32904 of title  
7 49, United States Code; and

8 “(II) in the case of an electric  
9 drive vehicle with the ability to re-  
10 charge from an off-board source, the  
11 reported mileage, as determined in a  
12 manner consistent with the Society of  
13 Automotive Engineers recommended  
14 practice for that configuration or a  
15 similar practice recommended by the  
16 Secretary.

17 “(iii) ENGINEERING INTEGRATION  
18 COSTS.—The term ‘engineering integration  
19 costs’ includes the cost of engineering  
20 tasks relating to—

21 “(I) incorporating qualifying  
22 components into the design of ad-  
23 vanced technology vehicles; and

24 “(II) designing tooling and  
25 equipment and developing manufac-

1 turing processes and material sup-  
2 pliers for production facilities that  
3 produce qualifying components or ad-  
4 vanced technology vehicles.

5 “(iv) QUALIFYING COMPONENTS.—  
6 The term ‘qualifying components’ means  
7 components that the Administrator deter-  
8 mines to be—

9 “(I) designed for advanced tech-  
10 nology vehicles; and

11 “(II) installed for the purpose of  
12 meeting the performance requirements  
13 of advanced technology vehicles.

14 “(v) MANUFACTURED SUBSTANTIALLY  
15 AT FACILITIES IN THE UNITED STATES.—  
16 The phrase ‘manufactured substantially at  
17 facilities in the United States’ means that  
18 the percentage of value added in the  
19 United States is at least 65 percent, except  
20 that in the case of energy storage devices  
21 the percentage of value added in the  
22 United States is at least 20 percent  
23 through 2012, at least 40 percent in 2013  
24 and 2014, and at least 65 percent in 2015  
25 and thereafter.

1           “(C) GRANTS TO ACCELERATE DEPLOY-  
2           MENT OF LOW-GHG VEHICLES.—The Adminis-  
3           trator, in consultation with the Secretary of En-  
4           ergy, shall promulgate regulations for the dis-  
5           tribution of funding awards under this sub-  
6           section to automobile manufacturers and com-  
7           ponent suppliers to pay not more than 30 per-  
8           cent of the cost of—

9                   “(i) reequipping, expanding, or estab-  
10                  lishing a manufacturing facility in the  
11                  United States to produce—

12                           “(I) qualifying advanced tech-  
13                           nology vehicles; or

14                           “(II) qualifying components;

15                           “(ii) engineering integration per-  
16                           formed in the United States of qualifying  
17                           vehicles and qualifying components; and

18                           “(iii) qualifying components manufac-  
19                           tured substantially at facilities in the  
20                           United States.

21           “(D) PERIOD OF AVAILABILITY.—An  
22           award under subparagraph (C) shall apply to—

23                   “(i) facilities and equipment placed in  
24                   service beginning on the date of enactment

1 of this title and ending on December 30,  
2 2020; and

3 “(ii) engineering integration costs in-  
4 curred, and the cost of qualifying compo-  
5 nents purchased during the period begin-  
6 ning on the date of enactment of this title  
7 and ending on December 30, 2020.

8 “(3) TRANSPORTATION ELECTRIFICATION PRO-  
9 GRAM.—The Secretary of Energy shall use  $\frac{1}{3}$  of the  
10 funds placed in the Low Carbon Technology Fund  
11 under paragraph (1) to carry out the transportation  
12 electrification programs authorized under section  
13 131 of the Energy Independence and Security Act of  
14 2007 (42 U.S.C. 17011).

15 “(4) ADVANCED BATTERY PROGRAM.—The Sec-  
16 retary of Energy shall use  $\frac{1}{3}$  of the funds placed in  
17 the Low Carbon Technology Fund under paragraph  
18 (1) to carry out the advanced battery loan guarantee  
19 program authorized under section 135 of the Energy  
20 Independence and Security Act of 2007 (42 U.S.C.  
21 17012).

22 “(f) CLEAN FUELS PROGRAMS.—

23 “(1) IN GENERAL.—Not later than October 1,  
24 2011, and every calendar year thereafter through  
25 2024, the Administrator shall auction, pursuant to

1 section 730, the emission allowances for the fol-  
2 lowing vintage year that are allocated to the Clean  
3 Fuels programs pursuant to section 721(a)(4) and  
4 place the proceeds from the sale of those allowances  
5 into the Low Carbon Technology Fund established  
6 under section 731(a). Funds so deposited shall be  
7 available for expenditure, without further appropria-  
8 tion or fiscal year limitation.

9 “(2) **ADVANCED BIOFUELS PROGRAM.**—The  
10 Secretary of Energy shall use  $\frac{1}{2}$  of the funds placed  
11 in the Low Carbon Technology Fund under para-  
12 graph (1) to carry out advanced biofuels programs  
13 authorized under section 207 of the Energy Inde-  
14 pendence and Security Act of 2007 (42 U.S.C.  
15 17022).

16 “(3) **RENEWABLE FUELS INFRASTRUCTURE**  
17 **PROGRAM.**—The Secretary of Energy shall use  $\frac{1}{2}$  of  
18 funds placed in the Low Carbon Technology Fund  
19 under paragraph (1) to carry out renewable fuel in-  
20 frastructure programs authorized under section 244  
21 of the Energy Independence and Security Act of  
22 2007 (42 U.S.C. 17052).

23 **“SEC. 725. EARLY ACTION CREDIT.**

24 “(a) **DISTRIBUTION.**—Not later than November 30,  
25 2012, the Administrator shall distribute the emission al-

1 lowances available under section 721(a)(6) according to  
2 regulations issued by the Administrator pursuant to sub-  
3 section (b) of this section.

4 “(b) REGULATIONS.—Not later than November 30,  
5 2011, the Administrator shall promulgate regulations gov-  
6 erning the distribution of emission allowances available  
7 under section 721(a)(6). These regulations shall provide  
8 emission allowances—

9 “(1) sufficient to compensate any entity located  
10 in the United States that, as of the December 31,  
11 2011, holds emission allowances issued by the State  
12 of California or for the Regional Greenhouse Gas  
13 Initiative for the cost of obtaining and holding such  
14 allowances; and

15 “(2) for offset projects described in section  
16 747(c).

17 “(c) PRIORITIZATION.—If the applications for allow-  
18 ances under this section exceed the number of emission  
19 allowances available under section 721(a)(6), the Adminis-  
20 trator shall distribute emission allowances first under sub-  
21 section (b)(1), then shall have the discretion to establish  
22 ratios for distribution of emission allowances under sub-  
23 section (b)(2).

24 **“SEC. 726. CONSUMERS AND DEFICIT REDUCTION.**

25 “(a) LOW INCOME CONSUMERS.—



1           “(1) IN GENERAL.—Not later than November  
2 of 2011 and each calendar year thereafter through  
3 2024, the Administrator shall auction, pursuant to  
4 section 730, all of the emission allowances for the  
5 following vintage year allocated to Low Income Con-  
6 sumer Climate Change Rebates pursuant to section  
7 721(a)(7) and deposit the proceeds in the Low In-  
8 come Consumer Climate Change Rebate Fund.  
9 Funds so deposited shall be available for expendi-  
10 ture, without further appropriation or fiscal year  
11 limitation.

12           “(2) DISTRIBUTION.—Amounts in the Low In-  
13 come Consumer Climate Change Rebate Fund shall  
14 be distributed in accordance with title VII of the  
15 \_\_\_\_\_ Act of 2008.

16           “(b) ALL CONSUMERS [APPLIES TO ALL ALLOCA-  
17 TION OPTIONS POST-2025, AND ALLOCATION OPTIONS B  
18 AND D PRE-2026].—

19           “(1) IN GENERAL.—The Administrator shall  
20 auction, pursuant to section 730, all of the emission  
21 allowances available for Consumer Climate Change  
22 Rebates pursuant to section 721(a)(7) and (b) and  
23 deposit the proceeds in the Consumer Climate  
24 Change Rebate Fund. Funds so deposited shall be

1 available for expenditure, without further appropria-  
2 tion or fiscal year limitation.

3 “(2) DISTRIBUTION.—Not later than October  
4 31 of each calendar year, the Administrator, or such  
5 other Federal agency or department as the President  
6 may designate, shall distribute the funds in the Con-  
7 sumer Climate Change Rebate Fund on a per capita  
8 basis to each household in the United States.

9 “(3) LIMITATIONS.—The Administrator shall  
10 establish procedures to ensure that individuals who  
11 are not—

12 “(A) citizens or nationals of the United  
13 States; or

14 “(B) immigrants lawfully residing in the  
15 United States,

16 are excluded for the purpose of calculating rebates  
17 under this subsection.

18 **“SEC. 727. GREEN JOBS TRAINING.**

**【Applies only to allocation options B and C】**

19 “(a) IN GENERAL.—Not later than October 1, 2011,  
20 and every calendar year thereafter through 2024, the Ad-  
21 ministrator shall auction, pursuant to section 730, the  
22 emission allowances for the following vintage year that are  
23 allocated to Green Jobs Training pursuant to section  
24 721(a)(8) and place the proceeds from the sale of those

1 allowances into the Green Jobs Fund created by section  
2 731(a). Funds so deposited shall be available for expendi-  
3 ture, without further appropriation or fiscal year limita-  
4 tion.

5 “(b) ENERGY EFFICIENCY AND RENEWABLE EN-  
6 ERGY WORKER TRAINING.—The Secretary of Labor shall  
7 use 95 percent of the funds placed in the Green Jobs Fund  
8 under subsection (a) for the Energy Efficiency and Re-  
9 newable Energy Worker Training Program established in  
10 section 171(e) of the Workforce Investment Act of 1998  
11 (29 U.S.C. 2916(e)).

12 “(c) ENERGY EFFICIENCY ENGINEERS PROGRAM.—

13 “(1) ALLOCATION.—The Secretary of Energy  
14 shall use 5 percent of the funds placed in the Green  
15 Jobs Fund pursuant to subsection (a) for carrying  
16 out this subsection.

17 “(2) IN GENERAL.—The Secretary of Energy,  
18 utilizing the existing Industrial Assessment Centers  
19 in the Department of Energy, shall establish an In-  
20 dustrial Energy Engineer Apprenticeship program to  
21 provide industrial energy efficiency expertise. The  
22 purpose of the program shall be to encourage com-  
23 panies hiring engineers to train them to specialize in  
24 improving energy efficiency.

1           “(3) GRANTS.—The program under this sub-  
2 section shall include grants from the Secretary to  
3 companies hiring and training energy efficiency engi-  
4 neers to match up to 50 percent of the salaries and  
5 apprenticeship training costs for those engineers.  
6 The grants shall be made available only upon the  
7 completion by the engineers of a minimum appren-  
8 ticeship period of 2 years. No more than 3 grants  
9 may be made under this paragraph in any fiscal  
10 year to a single company.

11           “(4) PARTNERSHIPS.—The Secretary of Energy  
12 shall enter into partnerships with institutions of  
13 higher education, through the Industrial Assessment  
14 Centers, to assess regional industrial energy con-  
15 sumption and to train engineering, management (in-  
16 cluding those in apprenticeships referred to in para-  
17 graph (2)), and other students through cooperative  
18 programs to reduce industrial energy consumption.

19 **“SEC. 728. SUPPLEMENTAL GREENHOUSE GAS REDUC-**  
20 **TIONS.**

21           “(a) IN GENERAL.—The Administrator shall auction,  
22 pursuant to section 730, all of the emission allowances  
23 available for supplemental greenhouse gas reductions pur-  
24 suant to section 721(a)(9) and deposit the proceeds in the  
25 Supplemental Greenhouse Gas Reduction Fund. Funds so

1 deposited shall be available for expenditure, without fur-  
2 ther appropriation or fiscal year limitation.

3 “(b) USE OF FUNDS.—The Administrator shall use  
4 the funds placed in the Supplemental Greenhouse Gas Re-  
5 duction Fund under subsection (a) for supplemental  
6 greenhouse gas reductions pursuant to part F.

7 “(c) EXCEPTION.—Notwithstanding subsection (a),  
8 the Administrator may, pursuant to regulations estab-  
9 lished under part F, distribute (rather than auction) a  
10 portion of the allowances available for supplemental green-  
11 house gas reductions pursuant to section 721(a)(9).

12 **“SEC. 729. ADAPTATION.**

**【Applies only to allocation option C】**

13 “(a) INTERNATIONAL CLEAN TECHNOLOGY AND AD-  
14 APTATION.—

15 “(1) IN GENERAL.—The Administrator shall  
16 auction, pursuant to section 730, all of the emission  
17 allowances available for International Clean Tech-  
18 nology and Adaptation pursuant to section  
19 721(a)(10) and deposit the proceeds in the Inter-  
20 national Clean Technology and Adaptation Fund.  
21 Funds so deposited shall be available for expendi-  
22 ture, without further appropriation or fiscal year  
23 limitation.

1           “(2) DISTRIBUTION.—The Secretary of State,  
2           working with the Administrator of USAID, shall use  
3           the funds in the International Clean Technology and  
4           Adaptation Fund to meet financial commitments of  
5           the United States to developing countries or to inter-  
6           national funds to which the United States has  
7           agreed pursuant to any applicable international cli-  
8           mate change agreement.

9           “(b) NATIONAL CLIMATE CHANGE ADAPTATION.—

10           “(1) IN GENERAL.—The Administrator shall  
11           auction, pursuant to section 730, all of the emission  
12           allowances allocated to domestic adaptation pursu-  
13           ant to section 721(a)(10) and deposit 50 percent of  
14           the proceeds in the National Climate Change Adap-  
15           tation Fund and 50 percent into the Natural Re-  
16           sources Climate Change Adaptation Fund. Funds so  
17           deposited shall be available for expenditure, without  
18           further appropriation or fiscal year limitation.

19           “(2) DISTRIBUTION.—

20           “(A) For each fiscal year starting in 2013,  
21           the Secretary of Commerce shall use not more  
22           than 15 percent of the funds in the National  
23           Climate Change Adaptation Fund to carry out  
24           the National Climate Change Adaptation Pro-

1           gram established under section 603 of the  
2           \_\_\_\_\_ Act of 2008.

3           “(B) For each fiscal year starting in 2013,  
4           the Federal agency or agencies charged with  
5           implementing the program established under  
6           section 607 of the \_\_\_\_\_ Act of 2008 shall  
7           use not more than 85 percent of the funds in  
8           the National Climate Change Adaptation Fund  
9           to provide financial assistance to State, local,  
10          and tribal governments pursuant to such pro-  
11          gram.

12          “(C) For each fiscal year starting in 2013,  
13          the funds in the Natural Resources Climate  
14          Change Adaptation Fund shall be used to carry  
15          out the Natural Resources Adaptation Program  
16          established under subtitle B of title VI of the  
17          \_\_\_\_\_ Act of 2008.

18   **“SEC. 730. AUCTIONS.**

19          “(a) IN GENERAL.—Any auction of emission allow-  
20          ances under this part shall be carried out pursuant to this  
21          section and the regulations established hereunder.

22          “(b) INITIAL REGULATIONS.—Not later than 24  
23          months after the date of enactment of this title, the Ad-  
24          ministrators, in consultation with the Federal Energy Reg-  
25          ulatory Commission, shall promulgate regulations gov-

1 erning the auction of allowances under this section. Such  
2 regulations shall include the following requirements:

3           “(1) FREQUENCY; FIRST AUCTION.—Auctions  
4 shall be held four times per year at regular intervals,  
5 with the first auction to be held no later than March  
6 31, 2010.

7           “(2) AUCTION SCHEDULE; CURRENT AND FU-  
8 TURE VINTAGES.—The Administrator shall, at each  
9 quarterly auction under this section, offer for sale  
10 both a portion of the allowances with the same vin-  
11 tage year as the year in which the auction is being  
12 conducted and a portion of the allowances with vin-  
13 tage years from future years. The preceding sen-  
14 tence shall not apply to auctions held in 2010 and  
15 2011, during which, by necessity, the Administrator  
16 shall auction only allowances with a vintage year  
17 that is later than the year in which the auction is  
18 held. Beginning with the first auction and at each  
19 quarterly auction held thereafter, the Administrator  
20 may offer for sale allowances with vintage years of  
21 up to four years in advance of the year in which the  
22 auction is being conducted.

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



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

6           “(5) DISCLOSURE OF BENEFICIAL OWNER-  
7 SHIP.—Each bidder in the auction shall be required  
8 to disclose the person or entity sponsoring or bene-  
9 fitting from the bidder’s participation in the auction  
10 if such person or entity is, in whole or in part, other  
11 than the bidder or the bidder’s employer.

12           “(6) BIDDING LIMITS.—No person may, di-  
13 rectly or in concert with another participant, pur-  
14 chase more than 10 percent of the allowances of-  
15 fered for sale at any quarterly auction.

16           “(7) PUBLICATION OF INFORMATION.—After  
17 the auction, the Administrator shall, in a timely  
18 fashion, publish the identities of winning bidders,  
19 the quantity of allowances obtained by each winning  
20 bidder, and the auction clearing price.

21           “(8) OTHER REQUIREMENTS.—The Adminis-  
22 trator may include in the regulations such other re-  
23 quirements or provisions as the Administrator, in  
24 consultation with the Federal Energy Regulatory  
25 Commission, considers necessary to promote effec-

1       tive, efficient, transparent, and fair administration  
2       of auctions under this section.

3       “(c) ALLOWANCES PURCHASED ON LAY AWAY.—

4             “(1) IN GENERAL.—A covered entity may com-  
5       mit at auction to purchase and take possession of  
6       emission allowances after the auction (in this sub-  
7       section referred to as ‘putting allowances on lay  
8       away’).

9             “(2) PAYMENT REQUIRED BEFORE POSSES-  
10       SION.—A covered entity may not take possession of  
11       emission allowances put on lay away before making  
12       full payment of the price committed to at auction.

13       “(3) AMOUNT.—

14             “(A) IN GENERAL.—For each vintage year,  
15       a covered entity may put on lay away emission  
16       allowances in an amount equal to 80 percent of  
17       the covered entity’s anticipated emission allow-  
18       ance compliance obligation for that year under  
19       section 712(a).

20             “(B) FIRST YEAR.—The Administrator  
21       shall, by regulation, establish a separate limita-  
22       tion under this paragraph applicable to covered  
23       entities who had no compliance obligation for  
24       emissions during the previous year, permitting  
25       them to put emission allowances on lay away in

1 an amount of at least 80 percent of their ex-  
2 pected compliance obligation for the auction  
3 year under section 712(a).

4 “(4) DURATION.—A covered entity must pay  
5 for any emission allowances put on lay away not  
6 later than 15 months after the date of the auction  
7 in which the allowances were committed to be pur-  
8 chased. Each covered entity with emission allow-  
9 ances on lay away during the calendar year that  
10 matches the vintage year shall pay for and take pos-  
11 session of at least 25 percent of the emission allow-  
12 ances of that vintage year by March 31 of that cal-  
13 endar year, at least 50 percent by June 30, at least  
14 75 percent by September 30, and 100 percent by  
15 December 31.

16 “(5) PRICE.—A covered entity that puts emis-  
17 sion allowances on lay away shall pay the price for  
18 those allowances as determined by the auction. The  
19 Administrator shall not charge interest for allow-  
20 ances placed on lay away, as long as payment is  
21 made on the schedule set forth in this subsection.

22 “(6) VIOLATION.—Failure to pay for emission  
23 allowances according to the schedule set forth in this  
24 subsection shall be a violation of this Act, and the  
25 Administrator may auction or retire any emission al-

1       allowances for which payment is not received on a  
2       timely basis.

3       “(d) REVISION OF REGULATIONS.—The Adminis-  
4       trator may, in consultation with the Federal Energy Regu-  
5       latory Commission, at any time, revise the initial regula-  
6       tions promulgated under subsection (b) based on the Ad-  
7       ministrators’ experience in administering allowance auc-  
8       tions. Such revised regulations need not meet the require-  
9       ments identified in subsection (b) if the Administrator de-  
10      termines that an alternative auction design would be more  
11      effective, taking into account factors including costs of ad-  
12      ministration, transparency, fairness, and risks of collusion  
13      or manipulation. In determining whether and how to re-  
14      vise the initial regulations under this subsection, the Ad-  
15      ministrator shall not consider maximization of revenues to  
16      the Federal Government.

17      **“SEC. 731. AUCTION PROCEEDS.**

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

20              “(1) The Climate Change Management Fund.

21              “(2) The National Energy Efficiency Fund.

22              “(3) The Low Income Consumer Climate  
23      Change Rebate Fund.

24              “(4) The Consumer Climate Change Rebate  
25      Fund.

1           “(5) The Supplemental Greenhouse Gas Reduc-  
2           tion Fund.

3           “(6) The Low-Carbon Technology Fund.

4           “(7) The Green Jobs Fund.

5           “(8) The National Climate Change Adaptation  
6           Fund.

7           “(9) The Natural Resource Climate Change Ad-  
8           aptation Fund.

9           “(10) The International Clean Technology and  
10          Adaptation Fund.

11          “(11) The Strategic Reserve Fund.

12          “(b) AMOUNTS IN FUNDS.—Each Fund established  
13          by subsection (a) shall consist of such amounts as are de-  
14          posited into the respective Fund pursuant to this title.

15          “(c) CLIMATE CHANGE MANAGEMENT FUND.—

16                 “(1) USE OF FUNDS.—Funds from the Climate  
17          Change Management Fund may be used by—

18                         “(A) the Administrator for—

19                                 “(i) the costs of carrying out this title  
20                                 and title VIII, including the costs of pro-  
21                                 mulgation of regulations, development of  
22                                 policy guidance, development and operation  
23                                 of information systems, certification of  
24                                 monitoring equipment, conducting facilities  
25                                 audits and inspections, monitoring and

1 modeling, quality assurance and  
2 verification functions, enforcement, admin-  
3 istration, outreach, training, field audits,  
4 and financial management; and

5 “(ii) contracting with the National  
6 Academy of Sciences for periodic review  
7 under section 831; and

8 “(B) the Federal Energy Regulatory Com-  
9 mission for the costs of carrying out part IV of  
10 the Federal Power Act.

11 “(2) TREATMENT.—Amounts in the Climate  
12 Change Management Fund—

13 “(A) are subject to the availability of ap-  
14 propriations; and

15 “(B) shall remain available until expended.

16 **“SEC. 732. AUCTIONING ALLOWANCES FOR OTHER ENTI-**  
17 **TIES.**

18 “(a) STATES, TRIBES, AND LOCAL GOVERNMENTS.—

19 “(1) To facilitate the development of market li-  
20 quidity and pricing information, for emission allow-  
21 ances allocated to States, tribes, and local govern-  
22 ments pursuant to section 723(a), the Administrator  
23 shall act as the emission allowance owners’ agent  
24 and shall auction the allowances, pursuant to section  
25 730. For any calendar year after 2014, if the State,

1       tribe, or locality would prefer to receive allowances  
2       directly, the State, tribe, or locality shall notify the  
3       Administrator in writing.

4               “(2) For allowances allocated pursuant to sec-  
5       tion 723(b), the Administrator shall act as the allow-  
6       ance owners’ agent and sell the allowances at auc-  
7       tion and provide the proceeds directly to the State  
8       or locality.

9               “(b) CONSIGNMENT.—Any entity receiving emission  
10      allowances under this part may request that the Adminis-  
11      trator auction, pursuant to section 730, the allowances on  
12      consignment.

13              “(c) PROCEEDS.—For emission allowances auctioned  
14      pursuant to this section, notwithstanding section 3302 of  
15      title 31, United States Code, or any other provision of law,  
16      within 90 days of receipt, the United States shall transfer  
17      the proceeds from the auction to the entity to which the  
18      emission allowances were distributed. No funds trans-  
19      ferred from a purchaser to a seller of emission allowances  
20      under this subsection shall be held by any officer or em-  
21      ployee of the United States or treated for any purpose as  
22      revenue to the United States or the Administrator.

23              “(d) PRICING.—When the Administrator acts under  
24      this section as the agent of an entity to which emission  
25      allowances were distributed, the Administrator is not obli-

1 gated to obtain the highest price possible for the emission  
2 allowances, and instead shall follow the principles set out  
3 for conducting auctions in section 730.

4 “(e) REGULATIONS.—The Administrator shall issue  
5 regulations within 24 months after the date of enactment  
6 of this title to implement this section. The Administrator  
7 may permit emission allowance owners to condition the  
8 sale of their allowances on a minimum reserve price.

9 **“SEC. 733. RELATION TO STATE LAW.**

10 “(a) CONDITION FOR RECEIPT OF ALLOWANCES.—  
11 Notwithstanding any allocation or distribution formula in  
12 this title or any other law, no emission allowances shall  
13 be allocated to a State unless—

14 “(1) the State legislature or State regulatory  
15 agency (with respect to investor-owned utilities) has  
16 adopted the rate design standard under sections  
17 111(d)(17) and 303(b)(6) of the Public Utility and  
18 Regulatory Policies Act of 1978, as added by section  
19 532 of the Energy Independence and Security Act of  
20 2007; and

21 “(2) the State legislature or State code agency  
22 has adopted the advanced building codes prescribed  
23 by the Secretary under section 515 within two years  
24 of the establishment by the Secretary of a modified  
25 target code or standard.



1       “(b) STATE CAP AND TRADE PROGRAMS.—Notwith-  
2 standing section 116 of this Act, no State, local, or re-  
3 gional authority may adopt or enforce a program that caps  
4 the amount of greenhouse gases that may be emitted or  
5 sold, and that uses tradable emission allowances for the  
6 purpose of meeting that cap.

7       **“PART D—DOMESTIC OFFSETS PROGRAM**  
8 **“SEC. 741. ESTABLISHMENT OF DOMESTIC OFFSETS PRO-**  
9 **GRAM.**

10       “(a) REGULATIONS.—Not later than 2 years after  
11 the date of enactment of this title, the Administrator shall  
12 promulgate regulations establishing a program for the  
13 issuance of offset credits in accordance with the require-  
14 ments of this part.

15       “(b) REQUIREMENTS.—The regulations described in  
16 subsection (a) shall—

17               “(1) authorize the issuance of offset credits  
18 with respect to qualifying offset projects within the  
19 United States that result in reductions or avoidance  
20 of greenhouse gas emissions, or sequestration of  
21 greenhouse gases;

22               “(2) ensure that such offset credits represent  
23 real, verifiable, and additional greenhouse gas emis-  
24 sion reductions or avoidance, or increases in seques-  
25 tration;

1           “(3) ensure that offset credits issued for bio-  
2           logical sequestration offset projects are only issued  
3           for sequestration that is permanent, consistent with  
4           the accounting for reversals provided for under sec-  
5           tion 750; and

6           “(4) provide for the implementation of the re-  
7           quirements of this part.

8           “(c) COORDINATION TO MINIMIZE NEGATIVE EF-  
9           FECTS.—In promulgating and implementing regulations  
10          under this part, the Administrator shall act (including by  
11          rejecting projects, if necessary) to avoid or minimize, to  
12          the maximum extent practicable, adverse effects on human  
13          health or the environment resulting from the implementa-  
14          tion of offset projects under this part.

15          “(d) OFFSET REGISTRY.—The Administration shall  
16          establish an Offset Registry for qualifying offset projects  
17          and offset credits issued with respect thereto under this  
18          part.

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

20          “(a) LIST OF ELIGIBLE PROJECT TYPES.—The Ad-  
21          ministrators shall, by rule, establish and may periodically  
22          revise a list of categories of projects eligible for offset cred-  
23          its under this part. The list shall include—

24                  “(1) methane collection and combustion  
25                  projects at active underground coal mines;

1           “(2) methane collection and combustion  
2 projects at landfills;

3           “(3) methane collection and combustion  
4 projects involving manure management;

5           “(4) afforestation or reforestation of acreage  
6 not forested as of January 1, 2008; and

7           “(5) categories of projects added by the Admin-  
8 istrator pursuant to subsection (b).

9           “(b) ADDITION TO LIST OF ELIGIBLE PROJECT  
10 TYPES.—

11           “(1) IN GENERAL.—The Administrator—

12           “(A) may at any time, by rule, add cat-  
13 egories to the list in established under sub-  
14 section (a) by rule, if the Administrator, in con-  
15 sultation with the Secretary of Agriculture on  
16 agricultural and forestry offset projects, deter-  
17 mines that the project type can generate addi-  
18 tional reductions or avoidance of greenhouse  
19 gas emissions, or sequestration of greenhouse  
20 gases, subject to the requirements of this part;  
21 and

22           “(B) shall consider adding to the list es-  
23 tablished under subsection (a), at a minimum—

24           “(i) practices that increase agricul-  
25 tural soil carbon sequestration;

1                   “(ii) conversion of cropland to range-  
2                   land or grassland;

3                   “(iii) reduction of nitrogen fertilizer  
4                   use or increase in nitrogen use efficiency;

5                   “(iv) forest management resulting in  
6                   an additional increase in forest stand vol-  
7                   ume;

8                   “(v) reduced deforestation;

9                   “(vi) methane reduction from rec-  
10                  lamation of abandoned surface mines;

11                  “(vii) recycling and waste minimiza-  
12                  tion;

13                  “(viii) controlled wastewater treat-  
14                  ment; and

15                  “(ix) categories proposed to the Ad-  
16                  ministrator by petition, pursuant to sub-  
17                  section (c).

18                  “(2) INITIAL DETERMINATION.—The Adminis-  
19                  trator shall, by rule, make a determination on  
20                  whether to add to the list the categories described in  
21                  paragraph (1)(B)(i) through (viii) not later than 3  
22                  years after the date of enactment of this title.

23                  “(c) PETITION PROCESS.—

24                  “(1) IN GENERAL.—Not later than 1 year after  
25                  the date of enactment of this title, the Administrator

1 shall promulgate regulations establishing a petition  
2 process by which any person may propose offset  
3 project categories—

4 “(A) for addition, pursuant to subsection  
5 (b), to the list established under subsection (a);  
6 or

7 “(B) for removal from such list.

8 “(2) DETERMINATION TO GRANT OR DENY PE-  
9 TITION.—The Administrator shall determine wheth-  
10 er to grant or deny a petition submitted under para-  
11 graph (1) not later than 12 months after receipt of  
12 the petition.

13 “(d) EXCLUSIONS.—The Administrator shall ensure  
14 that no offset credits are issued under this part for any  
15 reduction or avoidance of greenhouse gas emissions, or se-  
16 questration of greenhouse gases, with respect to which the  
17 compliance obligations under section 712(a) apply.

18 **“SEC. 743. REQUIREMENTS FOR DOMESTIC OFFSET**  
19 **PROJECTS.**

20 “(a) IN GENERAL.—Not later than 1 year after the  
21 date of enactment of this title, in consultation with the  
22 Secretary of Agriculture on agricultural and forestry off-  
23 set projects, the Administrator shall establish by rule, for  
24 each type of eligible category of offset project described  
25 in section 742(a)(1) through (4), the following:

1           “(1) A standardized methodology for deter-  
2           mining the additionality of greenhouse gas emission  
3           reductions or avoidance, or greenhouse gas seques-  
4           tration, relative to a performance threshold or base-  
5           line for the eligible project category. Such method-  
6           ology shall ensure, at a minimum, that greenhouse  
7           gas emission reductions and avoidance, and green-  
8           house gas sequestration, are not considered addi-  
9           tional if they result from activities that—

10                   “(A) are required by or undertaken to  
11                   comply with any Federal, State, or local law, in-  
12                   cluding any regulation;

13                   “(B) were commenced prior to January 1,  
14                   2008; or

15                   “(C) are common practice in a relevant ge-  
16                   ographic area.

17           “(2) One or more protocols for determining the  
18           reductions, avoidance, or sequestration achieved by  
19           an offset project. Such protocols shall, at a min-  
20           imum—

21                   “(A) describe applicable monitoring tools  
22                   and quantification methods, including baseline  
23                   quantification;

24                   “(B) include an assessment of and ac-  
25                   counting for leakage as necessary; and

1           “(C) in the case of biological sequestration  
2 projects, include standardized methods, for use  
3 in determining and discounting for uncertainty,  
4 that—

5                   “(i) take into account—

6                           “(I) the robustness and rigor of  
7 the tools and methods described in  
8 subparagraph (A); and

9                           “(II) the robustness and rigor of  
10 methods used to determine  
11 additionality, leakage, and perma-  
12 nence; and

13                   “(ii) shall make use of a conservative  
14 coefficient that accounts for uncertainty,  
15 as determined by the Administrator.

16           “(3) An appropriate crediting period that incor-  
17 porates the following principles:

18                   “(A) The crediting period shall be no less  
19 than 5 and no greater than 10 years for any  
20 project type other than afforestation or refor-  
21 estation, and projects involving afforestation or  
22 reforestation shall have a crediting period of 20  
23 years for the components that involve  
24 afforestation or reforestation.

1           “(B) During an offset project’s crediting  
2 period, the project shall remain eligible for gen-  
3 erating offset credits, subject to the standards,  
4 protocols, and project eligibility list that applied  
5 as of the date of project approval, except as  
6 provided in subparagraph (C).

7           “(C) An offset project representative may  
8 petition for a new crediting period to commence  
9 after termination of a crediting period, subject  
10 to the standards, protocols, and project eligi-  
11 bility list in effect at the time when such peti-  
12 tion is submitted. A petition may not be sub-  
13 mitted under this subparagraph more than 18  
14 months before the end of the pending crediting  
15 period.

16       “(b) PRE-EXISTING METHODOLOGIES, PROTOCOLS,  
17 AND STANDARDS.—In promulgating requirements under  
18 this section, the Administrator shall give due consideration  
19 to methodologies, protocols, and standards for offset  
20 projects existing as of the date of enactment of this title.

21       “(c) ADDITIONAL PROJECT CATEGORIES.—The Ad-  
22 ministrator shall establish methodologies and protocols de-  
23 scribed in subsection (a)(1) and (2) for any project cat-  
24 egory that is added to the list pursuant to section 742(b).



1       “(d) REVIEW AND REVISION.—Not less frequently  
2 than once every 5 years, the Administrator shall review  
3 and, as appropriate based on new information, revise the  
4 methodologies, protocols, and standards established under  
5 this section.

6       **“SEC. 744. PROJECT INITIATION AND APPROVAL.**

7       “(a) IN GENERAL.—Not later than 2 years after the  
8 date of enactment of this title, the Administrator shall  
9 prescribe rules permitting offset project representatives,  
10 prior to initiation of an offset project, to voluntarily sub-  
11 mit to the Administrator a project design plan, includ-  
12 ing—

13               “(1) a plan for monitoring and quantifying re-  
14 ductions or avoidance of greenhouse gas emissions,  
15 or sequestration of greenhouse gas, resulting from  
16 the offset project;

17               “(2) a certification that the offset project will  
18 not have significant adverse effects on the environ-  
19 ment; and

20               “(3) such other information as the Adminis-  
21 trator considers necessary to determine that the off-  
22 set project will be in compliance with this part.

23       “(b) APPROVAL AND NOTIFICATION.—

1           “(1) IN GENERAL.—The Administrator shall,  
2           not later than 60 days after the submission of a  
3           complete project design plan under subsection (a)—

4                   “(A) determine whether the project design  
5           plan satisfies the applicable requirements of  
6           this part;

7                   “(B) notify the offset project representa-  
8           tive of that determination; and

9                   “(C) register the offset project, if the Ad-  
10          ministrator has approved the project design  
11          plan.

12          “(2) APPEAL.—The Administrator shall estab-  
13          lish procedures for appeal and review of negative de-  
14          terminations made under paragraph (1)(A).

15          “(c) EXPEDITED APPROVAL PROCESS.—The Admin-  
16          istrator may establish different approval processes under  
17          this section for different categories of offset projects listed  
18          under section 742.

19          **“SEC. 745. VERIFICATION AND ISSUANCE OF OFFSET CRED-**  
20                   **ITS.**

21          “(a) IN GENERAL.—One offset credit may be issued  
22          to an offset project representative for each ton of carbon  
23          dioxide equivalent verified, by a verifier accredited under  
24          subsection (c), to be reduced, avoided, or sequestered.  
25          Credits may be issued only for a year in the offset

1 project's crediting period in response to submittal of a  
2 verification report for the offset project, and only after re-  
3 view and subsequent approval of the verification report by  
4 the Administrator.

5 “(b) VERIFICATION REPORT REQUIREMENTS.—The  
6 Administrator shall specify the required components of a  
7 verification report required under subsection (a), which  
8 shall include—

9 “(1) designation of an offset project representa-  
10 tive;

11 “(2) an assessment of the offset project design  
12 and implementation;

13 “(3) the quantity of offsets generated;

14 “(4) the methodologies and protocols used for  
15 calculations;

16 “(5) the amount of discounts applied for uncer-  
17 tainty pursuant to protocols established under sec-  
18 tion 743(a)(2); and

19 “(6) any other information that the Adminis-  
20 trator considers to be necessary to achieve the pur-  
21 poses of this part.

22 “(c) VERIFIER ACCREDITATION.—

23 “(1) IN GENERAL.—Not later than 18 months  
24 after the date of enactment of this title, the Admin-  
25 istrator shall promulgate regulations establishing a

1 process and requirements for accreditation of third-  
2 party verifiers to ensure that such verifiers are pro-  
3 fessionally qualified and have no conflicts of interest.

4 “(2) PUBLIC ACCESSIBILITY.—Each verifier  
5 meeting the requirements for accreditation in ac-  
6 cordance with paragraph (1) shall be listed in a pub-  
7 licly accessible database, which shall be maintained  
8 and updated by the Administrator.

9 “(d) REGISTRATION AND AWARDING OF OFFSETS.—

10 “(1) IN GENERAL.—Not later than 90 days  
11 after the date on which the Administrator receives a  
12 verification report required under subsection (a), the  
13 Administrator shall—

14 “(A) determine whether the offset project  
15 satisfies the applicable requirements of this  
16 part; and

17 “(B) notify the offset project representa-  
18 tive of that determination.

19 “(2) AFFIRMATIVE DETERMINATION.—In the  
20 case of an affirmative determination under para-  
21 graph (1)(A), the Administrator shall—

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

24 “(B) register the offset credits, together  
25 with—

1 “(i) the applicable verification report;

2 and

3 “(ii) any other information identified

4 by the Administrator as being necessary to

5 achieve the purposes of this part; and

6 “(C) issue the offset credits.

7 “(3) LIMITATION.—Issuance of an offset credit

8 under this subsection shall not be considered an af-

9 firmative defense to an action challenging the basis

10 for the issuance or continued validity of the credit.

11 “(4) APPEAL AND REVIEW.—Not later than 3

12 years after the date of enactment of this title, the

13 Administrator shall establish procedures for the ap-

14 peal and review of determinations made under this

15 subsection.

16 **“SEC. 746. AUDITS.**

17 “(a) REGULATIONS.—Not later than 3 years after

18 the date of enactment of this title, the Administrator shall

19 promulgate regulations governing the auditing of offset

20 projects, offset credits, and practices of third-party

21 verifiers.

22 “(b) REQUIREMENTS.—The regulations promulgated

23 under this section shall specifically consider—

24 “(1) principles for initiating and conducting au-

25 dits;

- 1           “(2) the type or scope of audits, including—  
2                   “(A) reporting and recordkeeping; and  
3                   “(B) site review or visitation;  
4           “(3) the rights and privileges of an audited  
5 party; and  
6           “(4) the establishment of an appeal process.

7 **“SEC. 747. EARLY OFFSET PROJECTS.**

8           “(a) PRE-EXISTING PROJECTS.—

9                   “(1) IN GENERAL.—Except as otherwise pro-  
10 vided in this section, the Administrator may declare  
11 eligible for use under this title, or issue, offset cred-  
12 its for offset projects that—

13                   “(A) were started no later than January 1,  
14 2006; and

15                   “(B) are registered under or meet the  
16 standards of an existing Federal, State, or re-  
17 gional greenhouse gas registry, or meet the  
18 standards established under an existing private  
19 registry or greenhouse gas reduction program,  
20 if the Administrator determines that such offset  
21 projects satisfy the applicable requirements of this  
22 part.

23                   “(2) INELIGIBLE CREDITS.—This subsection  
24 shall not apply to offset credits that have expired or

1 have been retired, canceled, or used for compliance  
2 under a program described in paragraph (1)(B).

3 “(b) **LIMITATION.**—Offset credits shall be issued  
4 under this part only for reductions or avoidance of green-  
5 house gas emissions, or sequestration of greenhouse gases,  
6 that occur after the date of promulgation of regulations  
7 under section 741(a).

8 “(c) **EARLY ACTION ALLOWANCES.**—Offset projects  
9 that—

10 “(1) commenced operations after January 1,  
11 2002, but before the date of enactment of this title;  
12 and

13 “(2) are registered under or meet the standards  
14 of an existing Federal, State, or regional greenhouse  
15 gas registry, or meet the standards established  
16 under an existing private registry or greenhouse gas  
17 reduction program,

18 shall be eligible to receive early action allowances, pursu-  
19 ant to section 725, if the Administrator determines that  
20 such offset projects satisfy the applicable requirements of  
21 this part.

22 **“SEC. 748. ENVIRONMENTAL CONSIDERATIONS.**

23 “Not later than 18 months after the date of enact-  
24 ment of this title, the Administrator, in consultation with  
25 the Secretary of Agriculture, shall promulgate regulations

1 for the selection and use of tree species in afforestation  
2 and reforestation offset projects—

3 “(1) to ensure that native species are given pri-  
4 mary consideration in such projects;

5 “(2) to enhance biological diversity in such  
6 projects;

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

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

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

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

18 “(b) TRANSFERABILITY.—An offset credit issued  
19 under this part may be sold, traded, or transferred, unless  
20 the offset credit has expired or been retired, canceled, or  
21 used for compliance.

22 **“SEC. 750. ACCOUNTING FOR REVERSALS.**

23 “The Administrator shall prescribe regulations estab-  
24 lishing policies to account for and address reversals in se-  
25 questration projects. Such regulations shall include—



1 “(1) reporting requirements;

2 “(2) sanctions for failure to report reversals;

3 “(3) consequences for reversals, including as-  
4 signment of liability and responsibility for mitigating  
5 and fully compensating for reversals; and

6 “(4) any other provisions the Administrator de-  
7 termines necessary to account for and address rever-  
8 sals.

9 **“PART E—INTERNATIONAL EMISSION**  
10 **ALLOWANCES AND OFFSET CREDITS**

11 **“SEC. 761. INTERNATIONAL EMISSION ALLOWANCES.**

12 “(a) **QUALIFYING PROGRAMS.**—The Administrator,  
13 in consultation with the Secretary of State, shall by rule  
14 designate an international climate change program as a  
15 qualifying international program if—

16 “(1) the program is run by a national or supra-  
17 national foreign government, and imposes a manda-  
18 tory absolute tonnage limit on greenhouse gas emis-  
19 sions from 1 or more foreign countries, or from 1 or  
20 more economic sectors in such a country or coun-  
21 tries; and

22 “(2) the program is at least as stringent as the  
23 program established by this title, including com-  
24 parable monitoring and compliance.

1           “(b) DISQUALIFIED ALLOWANCES.—An international  
2 emission allowance may not be submitted under section  
3 712(c)(5) if it is in the nature of an offset credit or allow-  
4 ance awarded based on the achievement of an increase in  
5 biological sequestration or a reduction in greenhouse gas  
6 emissions that are not subject to the mandatory absolute  
7 tonnage limits referred to in subsection (a).

8           **“SEC. 762. INTERNATIONAL OFFSET CREDITS.**

9           “(a) REGULATIONS.—The Administrator shall, not  
10 later than 1 year after the promulgation of regulations  
11 governing domestic offsets under section 741(a), promul-  
12 gate regulations providing for the listing and approval of  
13 categories or subcategories of qualifying international off-  
14 set credits for holding under section 712(c)(1), (2), (3),  
15 or (4).

16           “(b) REQUIREMENTS.—The regulations promulgated  
17 under subsection (a) shall require that, in order for a cat-  
18 egory or subcategory of international offset credits to be  
19 approved for use under this title—

20                   “(1) such international offset credits have not  
21 been awarded based on the destruction of  
22 hydrofluorocarbons; and

23                   “(2) the methods, protocols, and standards for  
24 approval of such international offset credits shall be  
25 at least as stringent as the methods, protocols, and

1 standards applicable to domestic offset credits issued  
2 under part D, except that the listing of eligible  
3 project types under section 742 shall not apply to  
4 this paragraph.

5 “(c) CONSIDERATION.—In determining approval  
6 under subsection (b), the Administrator may consider  
7 whether or not these categories are accepted or are likely  
8 to be accepted in other qualifying programs designated  
9 under section 761(a).

10 **“SEC. 763. RETIREMENT.**

11 “(a) ENTITY CERTIFICATION.—The owner or oper-  
12 ator of a covered entity that holds an international offset  
13 credit or international emission allowance under section  
14 712(c)(1), (2), (3), (4), or (5) shall certify to the Adminis-  
15 trator that such international offset credit or international  
16 emission allowance has not previously been used to comply  
17 with any foreign or international greenhouse gas regu-  
18 latory program.

19 “(b) RETIREMENT.—

20 “(1) FOREIGN AND INTERNATIONAL REGU-  
21 LATORY ENTITIES.—The Administrator shall seek,  
22 by whatever means appropriate, including agree-  
23 ments and technical cooperation, on registry and al-  
24 lowance tracking, with foreign or international regu-

1 latory entities, to ensure that any relevant foreign or  
2 international regulatory entities—

3 “(A) are notified of the submission, for  
4 purposes of compliance with this title, of any  
5 international offset credit or international emis-  
6 sion allowance; and

7 “(B) provide for the disqualification of  
8 such international offset credit or international  
9 emission allowance for any subsequent use  
10 under the relevant foreign or international  
11 greenhouse gas regulatory program, regardless  
12 of whether such use is a sale, exchange, or sub-  
13 mission to satisfy a compliance obligation.

14 “(2) DISQUALIFICATION FROM FURTHER  
15 USE.—The Administrator shall ensure that, once an  
16 international offset credit or international emission  
17 allowance has been retired or otherwise used for pur-  
18 poses of compliance with this title or a foreign pro-  
19 gram, such allowance or credit shall be disqualified  
20 from any further use under this title.

21 **“SEC. 764. OFFSET CREDITS FOR INTERNATIONAL FOREST**  
22 **CARBON ACTIVITIES.**

23 “(a) REGULATIONS.—Not later than 2 years after  
24 the date of enactment of this title, the Administrator, in  
25 consultation with the Secretary of the Interior, the Sec-

1 retary of State, and the Secretary of Agriculture, shall  
2 promulgate regulations for the issuance and use of inter-  
3 national offset credits for international forest carbon ac-  
4 tivities.

5 “(b) REQUIREMENTS.—The regulations promulgated  
6 pursuant to subsection (a) shall require that, in order to  
7 be approved for use under this section, international offset  
8 credits for an international forest carbon activity shall  
9 meet such quality and eligibility requirements as the Ad-  
10 ministrator may establish, including a requirement that—

11 “(1) the emission reductions or sequestrations  
12 are real, permanent, additional, verifiable, and en-  
13 forceable, with reliable measuring and monitoring  
14 and appropriate accounting for leakage; and

15 “(2) the activity shall be designed, carried out,  
16 and managed—

17 “(A) in accordance with widely accepted,  
18 environmentally sustainable forestry practices;

19 “(B) to promote native species and con-  
20 servation or restoration of native forests, if  
21 practicable, and to avoid the introduction of  
22 invasive nonnative species;

23 “(C) in a manner that is supportive of the  
24 internationally recognized rights of indigenous

1 and other forest-dependent people living in the  
2 affected areas; and

3 “(D) in a manner that enhances the capa-  
4 bility, if consistent with the applicable laws in  
5 the country involved, of local communities to  
6 exercise the right of free prior informed consent  
7 regarding projects or other activities.

8 “(c) NATIONAL DEFORESTATION BASELINE METH-  
9 ODOLOGY.—The regulations promulgated pursuant to sub-  
10 section (a) shall establish a methodology for determining  
11 national deforestation baselines. Such national deforest-  
12 ation baselines shall be—

13 “(1) national in scope;

14 “(2) consistent with nationally appropriate miti-  
15 gation commitments or actions, taking into consider-  
16 ation the average annual historical deforestation and  
17 degradation rates of the country during a period of  
18 at least 5 years; and

19 “(3) projected to result in zero-net deforest-  
20 ation by not later than 2050.

21 “(d) NATIONAL LEVEL ACTIVITIES.—

22 “(1) IN GENERAL.—The Administrator, in con-  
23 sultation with the Secretary of State, shall identify  
24 and periodically review and update a list of the  
25 names of countries that have—

1           “(A) demonstrated the capacity to partici-  
2           pate in international forest carbon activities at  
3           a national level, including—

4                   “(i) sufficient historical data on  
5                   changes in national forest carbon stocks;

6                   “(ii) the technical capacity to monitor  
7                   and measure forest carbon fluxes with an  
8                   acceptable level of uncertainty; and

9                   “(iii) the institutional capacity to re-  
10                  duce emissions from deforestation and for-  
11                  est degradation; and

12                 “(B) established a credible national defor-  
13                 estation baseline;

14                 “(C) achieved national-level reductions of  
15                 deforestation and forest degradation below a  
16                 national deforestation baseline, taking into con-  
17                 sideration the average annual deforestation and  
18                 forest degradation rates of the country during  
19                 a period of at least 5 years;

20                 “(D) implemented an emission reduction  
21                 program for the forest sector; and

22                 “(E) demonstrated those reductions using  
23                 remote sensing technology, taking into consider-  
24                 ation relevant international standards.

1           “(2) CREDITING AND ADDITIONALITY.—A  
2           verified reduction in greenhouse gas emissions from  
3           deforestation and forest degradation relative to a na-  
4           tional deforestation baseline described in paragraph  
5           (1)(B) shall be eligible for international offset cred-  
6           its.

7           “(e) SUBNATIONAL LEVEL ACTIVITIES.—With re-  
8           spect to foreign countries other than the foreign countries  
9           listed under subsection (d), the Administrator may issue  
10          international offset credits for project-scale international  
11          forest carbon activities, subject to the requirements de-  
12          scribed in subsection (b).

13          “(f) DISCOUNT.—

14                 “(1) INITIAL DISCOUNT.—If, after the date that  
15                 is 10 years after the date of enactment of this title,  
16                 the Administrator determines that a foreign country  
17                 that, in the aggregate, generates greenhouse gas  
18                 emissions accounting for more than 0.5 percent of  
19                 global greenhouse gas emissions, has not established  
20                 a credible national deforestation baseline or has not  
21                 reduced total emissions from deforestation and for-  
22                 est degradation of that foreign country, the Admin-  
23                 istrator shall apply a discount, based on tons re-  
24                 duced and before issuance, of not less than 10 per-



1 cent to distributions of international offset credits  
2 generated in that country under this section.

3 “(2) SUBSEQUENT DISCOUNT.—If, after the  
4 date that is 15 years after the date of enactment of  
5 this title, the Administrator determines that a for-  
6 eign country that, in the aggregate, generates green-  
7 house gas emissions accounting for more than 0.5  
8 percent of global greenhouse gas emissions, has not  
9 established a credible national deforestation baseline  
10 or has not reduced total emissions from deforest-  
11 ation and forest degradation of that foreign country,  
12 the Administrator shall cease distribution of inter-  
13 national offset credits generated to that country  
14 under this section.

15 “(g) MAXIMUM USE.—The regulations promulgated  
16 pursuant to this section shall ensure that international off-  
17 set credits are not issued under this section for sequestra-  
18 tion or emission reductions that have been used or will  
19 be used by any other country for compliance with a domes-  
20 tic or international obligation to limit or reduce green-  
21 house gas emissions.

22 “(h) REVIEWS.—Not later than 4 years after the date  
23 of enactment of this title and every 5 years thereafter,  
24 the Administrator, in consultation with the Secretary of  
25 State, shall conduct a review of the activities undertaken

1 pursuant to this section, including the effects of the activi-  
2 ties on indigenous and forest-dependent peoples residing  
3 in affected areas.

4 **“PART F—SUPPLEMENTAL GREENHOUSE GAS**  
5 **REDUCTION PROGRAM**

6 **“SEC. 771. DEFINITIONS.**

7 “In this part:

8 “(1) MOST VULNERABLE DEVELOPING COUN-  
9 TRIES.—the term ‘most vulnerable developing coun-  
10 tries’ means countries that individually emit less  
11 than 0.5 percent of the world’s greenhouse gas emis-  
12 sions and are—

13 “(A) least developed countries;

14 “(B) small island developing countries;

15 “(C) developing countries with low-lying  
16 coastal, arid, and semi-arid areas or areas liable  
17 to floods, drought, and desertification; or

18 “(D) developing countries with fragile  
19 mountainous ecosystems.

20 “(2) REDUCE OR SEQUESTER GREENHOUSE  
21 GAS EMISSIONS.—The term ‘reduce or sequester  
22 greenhouse gas emissions’ means achieve real,  
23 verifiable, and additional greenhouse gas emission  
24 reductions or avoidance, or increases in sequestra-  
25 tion.

1 **“SEC. 772. ESTABLISHMENT OF SUPPLEMENTAL GREEN-**  
2 **HOUSE GAS REDUCTION PROGRAM.**

3 “(a) IN GENERAL.—The Administrator, in consulta-  
4 tion with the Secretary of State, the Secretary of Agri-  
5 culture, and the Secretary of the Interior, shall establish  
6 a program to achieve greenhouse gas reductions to supple-  
7 ment those reductions that will be achieved by the emis-  
8 sion caps established in this title and by the regulations  
9 issued pursuant to titles VI and VIII of this Act.

10 “(b) MINIMUM AMOUNT OF SUPPLEMENTAL REDUC-  
11 TIONS.—The program established under this part shall re-  
12 duce or sequester at least 500,000,000 tons of carbon di-  
13 oxide equivalent by December 31, 2020. From January  
14 1, 2021, through December 31, 2025, the program shall  
15 reduce or sequester at least 500,000,000 tons of carbon  
16 dioxide equivalent.

17 “(c) MEASUREMENT AND MONITORING ADJUST-  
18 MENTS.—Notwithstanding 771(2), the Administrator  
19 may, under this section, support programs which seek to  
20 reduce or sequester greenhouse gas emissions, but lack the  
21 standardized or precise measurement and monitoring tech-  
22 niques needed for a full accounting of changes in emis-  
23 sions or baselines. In such cases, the Administrator shall  
24 apply an appropriate discount to reflect the uncertainty  
25 regarding precise levels of reduction or sequestration.

1 **“SEC. 773. PROGRAM ACTIVITIES.**

2 “(a) IN GENERAL.—The Administrator may achieve  
3 the supplemental greenhouse gas reductions required  
4 under section 772 by—

5 “(1) purchasing and retiring domestic or inter-  
6 national offset credits;

7 “(2) developing and implementing programs  
8 and projects that reduce or sequester greenhouse gas  
9 emissions; or

10 “(3) making grants or distributing emission al-  
11 lowances to any private or public group (including  
12 public international organizations), association, or  
13 other entity engaged in peaceful activities, for the  
14 purposes of reducing or sequestering greenhouse gas  
15 emissions.

16 “(b) PREFERRED ACTIVITIES.—In implementing the  
17 program under this part, the Administrator shall give  
18 preference to activities or grants that—

19 “(1) capture and beneficially use methane;

20 “(2) reduce greenhouse gas emissions or se-  
21 quester greenhouse gases in the most cost effective  
22 way;

23 “(3) reduce vulnerability and promote adapta-  
24 tion to climate change impacts in the United States  
25 and the most vulnerable developing countries (in-  
26 cluding impacts on water availability, agricultural

1 productivity, flood risk, coastal resources, timing of  
2 seasons, biodiversity, economic livelihoods, and  
3 human migration) through—

4 “(A) the protection and rehabilitation of  
5 natural systems, including wetlands and forests,  
6 in ways that reduce greenhouse gas emissions  
7 and are beneficial in increasing community-level  
8 or ecosystem resilience to the impacts of global  
9 climate change; and

10 “(B) the adoption and use of appropriate  
11 renewable and efficient energy technologies that  
12 are beneficial in increasing community-level re-  
13 siliance to the impacts of global climate change;

14 “(4) reduce emissions or increase sequestration  
15 of carbon dioxide through international forest carbon  
16 activities;

17 “(5) store carbon in peatland or other natural  
18 land;

19 “(6) reduce black carbon emissions; or

20 “(7) provide public health benefits by improving  
21 indoor air quality or reducing other air pollution.

22 “(c) INTERNATIONAL ACTIVITIES.—For international  
23 activities, the Administrator, in coordination with the Sec-  
24 retary of State or the Administrator of USAID, shall—

1           “(1) ensure that local communities in areas  
2           where any projects or programs are planned under  
3           the program are engaged and involved as full and  
4           equal partners in the design implementation and  
5           oversight of such projects or programs;

6           “(2) establish a process for consultation and  
7           disclosure of information at the national level in re-  
8           cipient countries with local, national, and inter-  
9           national stakeholders regarding any projects and  
10          programs planned; and

11          “(3) ensure that funded projects and programs  
12          strengthen local capacity through training and pro-  
13          motion of appropriate traditional knowledge.

14          “(d) CAPACITY BUILDING.—

15                 “(1) IN GENERAL.—The Administrator may  
16                 provide grants or otherwise support capacity build-  
17                 ing activities and programs under this section. The  
18                 purpose of capacity building programs shall be to  
19                 build institutional and technical capacity in areas  
20                 critical to the implementation of policies and  
21                 projects that reduce or sequester greenhouse gas  
22                 emissions.

23                 “(2) REDUCED DEFORESTATION AND FOREST  
24                 DEGRADATION.—The program may include activities  
25                 or grants for the preparation of a national reduced

1       deforestation and forest degradation strategy, in-  
2       cluding—

3               “(A) development of a reliable estimate of  
4               the national forest carbon stocks and sources of  
5               forest emissions in the developing country;

6               “(B) definition of the national deforest-  
7               ation baseline for the developing country;

8               “(C) specification of options for reducing  
9               emissions; and

10              “(D) implementation of mechanisms that  
11              will support policies, programs, and projects to  
12              reduce emissions.

13              “(e) OTHER AGENCIES OR DEPARTMENTS.—The Ad-  
14              ministrators may enter into a Memorandum of Under-  
15              standing with the Secretary of the Interior, the Secretary  
16              of Agriculture, or the Secretary of State, or the Adminis-  
17              trator of USAID that allows the relevant department or  
18              USAID to administer or implement any portion of the pro-  
19              gram under this part.

20              “(f) ADMINISTRATIVE REQUIREMENTS.—

21                      “(1) Not later than 36 months after the date  
22                      of enactment of this title, the Administrator shall  
23                      promulgate regulations implementing this part.

24                      “(2) Not later than 48 months after the date  
25                      of enactment of this title, and every year thereafter,

1 the Administrator shall report to Congress on the  
2 activities undertaken pursuant to this part, the  
3 emission allowance value devoted to each activity,  
4 and the projected and achieved additional tons of  
5 greenhouse gas emissions reduced or sequestered.

6 “(g) LEGAL EFFECT OF PART.—Nothing in this part  
7 supersedes, limits, or otherwise affects any restriction im-  
8 posed by Federal law (including regulations) on any inter-  
9 action between an entity located in the United States and  
10 an entity located in a foreign country.

11 **“PART G—INTERNATIONAL RESERVE**

12 **ALLOWANCE PROGRAM**

13 **“SEC. 781. DEFINITIONS.**

14 “In this part:

15 “(1) BASELINE EMISSION LEVEL.—

16 “(A) COVERED GOODS.—With respect to a  
17 covered good of a foreign country, the term  
18 ‘baseline emission level’ means, as determined  
19 by the Commission, the total annual greenhouse  
20 gas emissions attributed to the category of the  
21 covered good of the foreign country during cal-  
22 endar year 2005, based on the best available in-  
23 formation.

24 “(B) COUNTRIES.—With respect to the  
25 United States or a foreign country, the term



1 ‘baseline emission level’ means, as determined  
2 by the Commission, the total annual nationwide  
3 greenhouse gas emissions attributed to the  
4 country during calendar year 2005, based on  
5 the best available information.

6 “(2) BEST AVAILABLE INFORMATION.—The  
7 term ‘best available information’ means—

8 “(A) all relevant data that are available for  
9 a particular period; and

10 “(B) to the extent necessary—

11 “(i) economic and engineering models;

12 “(ii) best available information on  
13 technology performance levels; and

14 “(iii) any other useful measure or  
15 technique for estimating the emissions  
16 from emissions activities.

17 “(3) COMMISSION.—The term ‘Commission’  
18 means the International Climate Change Commis-  
19 sion established by section 784(a).

20 “(4) COMPARABLE ACTION.—

21 “(A) IN GENERAL.—The term ‘comparable  
22 action’ means any greenhouse gas regulatory  
23 programs, requirements, and other measures  
24 adopted by a foreign country that, in combina-  
25 tion, are comparable in effect to actions carried

1 out by the United States through Federal,  
2 State, and local measures to limit greenhouse  
3 gas emissions, as determined by the Commis-  
4 sion in accordance with subparagraph (B).

5 “(B) REQUIREMENTS.—For purposes of  
6 subparagraph (A), the Commission shall make  
7 a determination on whether a foreign country  
8 has taken comparable action for a particular  
9 calendar year based on the best available infor-  
10 mation and in accordance with the following re-  
11 quirements:

12 “(i) A foreign country shall be consid-  
13 ered to have taken comparable action if the  
14 Commission determines that the percent-  
15 age change in greenhouse gas emissions in  
16 the foreign country during the relevant pe-  
17 riod is equal to, or better than, the per-  
18 centage change in greenhouse emissions of  
19 the United States during that period.

20 “(ii) In the case of a foreign country  
21 that is not considered to have taken com-  
22 parable action under clause (i), the Com-  
23 mission shall take into consideration, in  
24 making a determination on comparable ac-  
25 tion for that foreign country, the extent to

1           which, during the relevant period, the for-  
2           eign country has implemented, verified,  
3           and enforced all of the following actions:

4                       “(I) The deployment and use of  
5                       commercially available state-of-the-art  
6                       technologies in industrial processes,  
7                       equipment manufacturing facilities,  
8                       power generation and other energy fa-  
9                       cilities, and consumer goods (such as  
10                      automobiles and appliances), and im-  
11                     plementation of other techniques or  
12                     actions, that have the effect of lim-  
13                     iting greenhouse gas emissions of the  
14                     foreign country during the relevant  
15                     period.

16                    “(II) Any regulatory programs,  
17                    requirements, and other measures  
18                    that the foreign country has imple-  
19                    mented to limit greenhouse gas emis-  
20                    sions during the relevant period.

21                    “(iii) For determinations under clause  
22                    (i), the Commission shall develop rules for  
23                    taking into account net transfers to and  
24                    from the United States, and between for-  
25                    eign countries, of greenhouse gas allow-

1           ances and other emission credits that are  
2           authorized for use by the United States or  
3           other foreign countries.

4                   “(iv) Any determination on com-  
5                   parable action made by the Commission  
6                   under this paragraph shall comply with ap-  
7                   plicable international agreements.

8                   “(5) COMPLIANCE YEAR.—The term ‘compli-  
9                   ance year’ means each calendar year for which the  
10                  requirements of this title apply to a category of cov-  
11                  ered goods of a covered foreign country that is im-  
12                  ported into the United States.

13                  “(6) COVERED FOREIGN COUNTRY.—The term  
14                  ‘covered foreign country’ means a foreign country  
15                  that is included on the covered list prepared under  
16                  section 786(b)(3).

17                  “(7) COVERED GOOD.—The term ‘covered good’  
18                  means a good that, as identified by the Adminis-  
19                  trator by regulation—

20                          “(A) is a primary product or manufactured  
21                          item for consumption;

22                          “(B) generates, in the course of the manu-  
23                          facture of the good, a substantial quantity of  
24                          direct greenhouse gas emissions or indirect  
25                          greenhouse gas emissions; and

1           “(C) is closely related to a good of the  
2           United States that is affected by a requirement  
3           of this title.

4           “(8) CUSTOMS.—The term ‘Customs’ means  
5           U.S. Customs and Border Protection.

6           “(9) ENTER; ENTRY.—The terms ‘enter’ and  
7           ‘entry’ mean the point at which a covered good  
8           passes into, or is withdrawn from a warehouse for  
9           consumption in, the customs territory of the United  
10          States.

11          “(10) FOREIGN COUNTRY.—The term ‘foreign  
12          country’ means any country or separate customs ter-  
13          ritory other than the United States.

14          “(11) INDIRECT GREENHOUSE GAS EMIS-  
15          SIONS.—The term ‘indirect greenhouse gas emis-  
16          sions’ means greenhouse gas emissions resulting  
17          from the generation of electricity consumed in man-  
18          ufacturing a covered good.

19          “(12) INTERNATIONAL AGREEMENT.—The term  
20          ‘international agreement’ means any international  
21          agreement to which the United States is a party, in-  
22          cluding the Marrakesh agreement establishing the  
23          World Trade Organization, done at Marrakesh on  
24          April 15, 1994.

1           “(13) INTERNATIONAL RESERVE ALLOW-  
2 ANCE.—The term ‘international reserve allowance’  
3 means an allowance (denominated in units of tons of  
4 carbon dioxide equivalent) that is—

5                   “(A) purchased from a special reserve of  
6 allowances pursuant to section 786(a); and

7                   “(B) used for purposes of meeting the re-  
8 quirements of section 786.

9           “(14) MANUFACTURED ITEM FOR CONSUMP-  
10 TION.—The term ‘manufactured item for consump-  
11 tion’ means any good or product—

12                   “(A) that is not a primary product;

13                   “(B) that generates, in the course of the  
14 manufacture, a substantial quantity of direct  
15 greenhouse gas emissions or indirect greenhouse  
16 gas emissions, including emissions attributable  
17 to the inclusion of a primary product in the  
18 manufactured item for consumption; and

19                   “(C) for which the Commission, in con-  
20 sultation with the Administrator, determines  
21 that the application of an international reserve  
22 allowance requirement under section 786 to the  
23 particular category of goods or products is tech-  
24 nically and administratively feasible and nec-  
25 essary to achieve the purposes of this part.

1           “(15) PERCENTAGE CHANGE IN GREENHOUSE  
2           GAS EMISSIONS.—The term ‘percentage change in  
3           greenhouse gas emissions’, with respect to a country,  
4           means, as determined by the Commission, the per-  
5           centage by which greenhouse gas emissions, on a na-  
6           tionwide basis, have decreased or increased (as the  
7           case may be) as compared to the baseline emission  
8           level of the country. The percentage change for a  
9           country shall be equal to the quotient obtained by  
10          dividing—

11                   “(A) the quantity of the decrease or in-  
12                   crease in the total nationwide greenhouse gas  
13                   emissions for the country, as compared to the  
14                   baseline emission level for the country; by

15                   “(B) the baseline emission level for the  
16                   country.

17          “(16) PRIMARY PRODUCT.—The term ‘primary  
18          product’ means—

19                   “(A) iron, steel, steel mill products (includ-  
20                   ing pipe and tube), aluminum, cement, glass  
21                   (including flat, container, and specialty glass  
22                   and fiberglass), pulp, paper, chemicals, and in-  
23                   dustrial ceramics; and

24                   “(B) any other manufactured product  
25                   that—

1                   “(i) is sold in bulk for purposes of  
2                   further manufacture or inclusion in a fin-  
3                   ished product; and

4                   “(ii) generates, in the course of the  
5                   manufacture of the product, direct green-  
6                   house gas emissions or indirect greenhouse  
7                   gas emissions that are comparable (on an  
8                   emissions-per-output basis) to emissions  
9                   generated in the manufacture of products  
10                  by covered entities in the industrial sector.

11 **“SEC. 782. PURPOSES.**

12                  “The purposes of this part are—

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

15                   “(2) to ensure, to the maximum extent prac-  
16                   ticable, that greenhouse gas emissions occurring out-  
17                   side the United States do not undermine the objec-  
18                   tives of the United States in addressing global cli-  
19                   mate change; and

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

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



1                   “(B) measures carried out by the United  
2                   States that comply with applicable international  
3                   agreements.

4   **“SEC. 783. INTERNATIONAL NEGOTIATIONS.**

5           “(a) FINDING.—Congress finds that the purposes de-  
6   scribed in section 782 can be most effectively addressed  
7   and achieved through agreements negotiated between the  
8   United States and foreign countries.

9           “(b) NEGOTIATING OBJECTIVE.—

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

17           “(2) INTENT OF CONGRESS REGARDING OBJEC-  
18   TIVE.—To the extent that the agreements described  
19   in subsection (a) involve measures that will affect  
20   international trade in any good or service, it is the  
21   intent of Congress that—

22           “(A) the negotiating objective of the  
23   United States shall be to focus multilateral and  
24   bilateral international agreements on the reduc-  
25   tion of greenhouse gas emissions to advance

1 achievement of the purposes described in sec-  
2 tion 782; and

3 “(B) the United States should attempt to  
4 achieve that objective through the negotiation of  
5 international agreements that—

6 “(i) with respect to foreign countries  
7 that are not taking comparable action, pro-  
8 mote the adoption of regulatory programs,  
9 requirements, and other measures that are  
10 comparable in effect to the actions carried  
11 out by the United States to limit green-  
12 house gas emissions on a nationwide basis;  
13 and

14 “(ii) with respect to foreign countries  
15 that are taking comparable action, promote  
16 the adoption of requirements similar in ef-  
17 fect to the requirements of this part to ad-  
18 vance the achievement of the purposes de-  
19 scribed in section 782.

20 “(c) NOTIFICATION TO FOREIGN COUNTRIES.—As  
21 soon as practicable after the date of enactment of this  
22 title, the President shall provide to each applicable foreign  
23 country a notification of the negotiating objective of  
24 United States described in subsection (b), including—

25 “(1) a declaration—

1           “(A) requesting that the foreign country  
2           take comparable action to limit the greenhouse  
3           gas emissions of the foreign country in accord-  
4           ance with the provisions of this part; and

5           “(B) indicating that such a request shall  
6           apply for a particular year unless the Commis-  
7           sion places that foreign country on the excluded  
8           list for that same year pursuant to clause (ii)  
9           or (iii) of section 786(b)(2)(A); and

10          “(2) an estimate of the percentage change in  
11          greenhouse gas emissions that the United States ex-  
12          pects to achieve annually through Federal, State,  
13          and local measures during the 10-year period begin-  
14          ning on January 1, 2012.

15          “(d) REPORT TO CONGRESS.—Not later than 2 years  
16          after the date of enactment of this title, and every 3 years  
17          thereafter, the President shall submit to Congress a report  
18          describing the progress made by the United States in  
19          achieving the negotiating objective described in subsection  
20          (b).

21        **“SEC. 784. INTERNATIONAL CLIMATE CHANGE COMMIS-**  
22        **SION.**

23          “(a) ESTABLISHMENT.—There is established a com-  
24          mission, to be known as the ‘International Climate Change  
25          Commission’.

1 “(b) ORGANIZATION.—

2 “(1) MEMBERSHIP.—

3 “(A) IN GENERAL.—The Commission shall  
4 be composed of 6 commissioners to be ap-  
5 pointed by the President, by and with the ad-  
6 vice and consent of the Senate.

7 “(B) REQUIREMENTS.—Each commis-  
8 sioner shall—

9 “(i) be a citizen of the United States;  
10 and

11 “(ii) have the required qualifications  
12 for developing knowledge and expertise re-  
13 lating to international climate change mat-  
14 ters, as the President determines to be  
15 necessary for performing the duties of the  
16 Commission under this part.

17 “(2) APPOINTMENT OF COMMISSIONERS.—

18 “(A) IN GENERAL.—Not later than 90  
19 days after the date of enactment of this title,  
20 the President shall appoint the commissioners  
21 to the Commission in accordance with this sub-  
22 section.

23 “(B) FAILURE TO APPOINT.—

24 “(i) IN GENERAL.—If the President  
25 fails to appoint 1 or more commissioners

1 by the deadline described in subparagraph  
2 (A), the International Trade Commission  
3 shall appoint the remaining commissioners  
4 by not later than 180 days after the date  
5 of enactment of this title.

6 “(ii) TERMINATION OF AUTHORITY.—  
7 On appointment of a commissioner by the  
8 International Trade Commission under  
9 clause (i), the authority of the President to  
10 appoint commissioners under this sub-  
11 section shall terminate.

12 “(3) POLITICAL AFFILIATION.—

13 “(A) IN GENERAL.—Not more than 3 com-  
14 missioners serving at any time shall be affili-  
15 ated with the same political party.

16 “(B) REQUIREMENT.—In appointing com-  
17 missioners to the Commission, the President or  
18 the International Trade Commission, as appli-  
19 cable, shall alternately appoint commissioners  
20 from each political party, to the maximum ex-  
21 tent practicable.

22 “(4) TERM OF COMMISSIONERS; REAPPOINT-  
23 MENT.—

24 “(A) IN GENERAL.—The term of a com-  
25 missioner shall be 12 years, except that the

1 commissioners first appointed under paragraph  
2 (2) shall be appointed to the Commission in a  
3 manner that ensures that—

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

7 “(ii) no commissioner serves a term of  
8 more than 12 years.

9 “(B) SERVICE UNTIL NEW APPOINT-  
10 MENT.—The term of a commissioner shall con-  
11 tinue after the expiration of the term of the  
12 commissioner until the date on which a replace-  
13 ment is appointed by the President and con-  
14 firmed by the Senate.

15 “(C) VACANCY.—Any commissioner ap-  
16 pointed to fill a vacancy occurring before the  
17 expiration of the term for which the predecessor  
18 was appointed shall be appointed for the re-  
19 mainder of the term.

20 “(D) REAPPOINTMENT.—An individual  
21 who has served as a commissioner for a term of  
22 more than 7 years shall not be eligible for re-  
23 appointment.

24 “(5) CHAIRPERSON AND VICE-CHAIRPERSON.—

25 “(A) DESIGNATION.—

1                   “(i) IN GENERAL.—The President  
2                   shall designate a Chairperson and Vice  
3                   Chairperson of the Commission from the  
4                   commissioners that are eligible for designa-  
5                   tion under subparagraph (C).

6                   “(ii) FAILURE TO DESIGNATE.—If the  
7                   President fails to designate a Chairperson  
8                   under clause (i), the commissioner with the  
9                   longest period of continuous service on the  
10                  Commission shall serve as Chairperson.

11                  “(B) TERM OF SERVICE.—The Chair-  
12                  person and Vice-Chairperson shall each serve  
13                  for a term of 4 years.

14                  “(C) ELIGIBILITY REQUIREMENTS.—

15                  “(i) CHAIRPERSON.—The President  
16                  may designate as Chairperson of the Com-  
17                  mission any commissioner who—

18                         “(I) is not affiliated with the po-  
19                         litical party with which the Chair-  
20                         person of the Commission for the im-  
21                         mediately preceding year was affili-  
22                         ated; and

23                         “(II) except in the case of the  
24                         first commissioners appointed to the

1 Commission, has served on the Com-  
2 mission for not less than 1 year.

3 “(ii) VICE-CHAIRPERSON.—The Presi-  
4 dent may designate as the Vice Chair-  
5 person of the Commission any commis-  
6 sioner who is not affiliated with the polit-  
7 ical party with which the Chairperson is  
8 affiliated.

9 “(6) QUORUM.—A majority of commissioners  
10 shall constitute a quorum.

11 “(7) VOTING.—

12 “(A) REQUIREMENT.—The Commission  
13 shall not carry out any duty or power of the  
14 Commission unless—

15 “(i) a quorum is present at the rel-  
16 evant public meeting of the Commission;  
17 and

18 “(ii) a majority of commissioners com-  
19 prising the quorum, and any commissioner  
20 voting by proxy, votes to carry out the  
21 duty or function.

22 “(B) EQUALLY DIVIDED VOTES.—With re-  
23 spect to a determination of the Commission re-  
24 garding whether a foreign country has taken  
25 comparable action under section 785, if the



1 votes of the commissioners are equally divided,  
2 the foreign country shall be considered not to  
3 have taken comparable action.

4 “(c) DUTIES.—The Commission shall—

5 “(1) determine whether foreign countries are  
6 taking comparable action under section 785;

7 “(2) establish foreign country lists under sec-  
8 tion 786(b);

9 “(3) classify categories of goods and products  
10 as manufactured items for consumption in accord-  
11 ance with the requirements of section 781(14);

12 “(4) determine the economic adjustment ratio  
13 that applies to covered goods of covered foreign  
14 countries under section 786(d)(5);

15 “(5) adjust the international reserve allowance  
16 requirements pursuant to section 787; and

17 “(6) carry out such other activities as the Com-  
18 mission determines to be appropriate to implement  
19 this part.

20 “(d) ENFORCEMENT POWERS.—

21 “(1) PENALTY FOR NONCOMPLIANCE.—The  
22 Commission may impose an excess emissions penalty  
23 on a United States importer of covered goods if that  
24 importer fails to submit the required number of  
25 international reserve allowances, as specified in sec-

1       tion 786, in an amount equal to the excess emissions  
2       penalty that an owner or operator of a covered enti-  
3       ty would be required to submit for noncompliance  
4       under section 713.

5           “(2) PROHIBITION ON IMPORTERS.—The Com-  
6       mission may prohibit a United States importer from  
7       entering covered goods for a period not to exceed 5  
8       years, if the importer—

9           “(A) fails to pay a penalty for noncompli-  
10       ance imposed under paragraph (1); or

11          “(B) submits a declaration under section  
12       786(c) that provides false or misleading infor-  
13       mation for the purpose of circumventing the  
14       international reserve allowance requirements of  
15       this part.

16          “(3) DELEGATION OF POWERS.—

17          “(A) IN GENERAL.—The Commission, as  
18       appropriate, may delegate to Customs any  
19       power of the Commission under this subsection.

20          “(B) ENFORCEMENT.—On delegation by  
21       the Commission of a power under subparagraph  
22       (A), Customs shall carry out the power in ac-  
23       cordance with such procedures and require-  
24       ments as the Commission may establish.

1 **“SEC. 785. DETERMINATIONS ON COMPARABLE ACTION.**

2 “(a) IN GENERAL.—Not later than July 1, 2013, and  
3 annually thereafter, the Commission shall determine  
4 whether, and the extent to which, each foreign country  
5 that is not exempted under subsection (b) has taken com-  
6 parable action to limit the greenhouse gas emissions of  
7 the foreign country, based on—

8 “(1) best available information; and

9 “(2) a comparison between actions that the  
10 United States and the foreign country carried out  
11 during the calendar year immediately preceding the  
12 calendar year in which the Commission is making  
13 the determination under this subsection.

14 “(b) EXEMPTION.—The Commission shall exempt  
15 from a determination under subsection (a) for a calendar  
16 year any foreign country that is placed on the excluded  
17 list pursuant to clause (ii) or (iii) of section 786(b)(2)(A)  
18 for that calendar year.

19 “(c) REPORTS.—The Commission shall, as expedi-  
20 tiously as practicable—

21 “(1) submit to the President and Congress an  
22 annual report describing the determinations of the  
23 Commission under subsection (a) for the most recent  
24 calendar year; and

25 “(2) publish a description of the determinations  
26 in the Federal Register.

1 **“SEC. 786. INTERNATIONAL RESERVE ALLOWANCE PRO-**  
2 **GRAM.**

3 “(a) ESTABLISHMENT.—

4 “(1) IN GENERAL.—The Administrator shall es-  
5 tablish a program under which the Administrator  
6 shall offer for sale to United States importers inter-  
7 national reserve allowances in accordance with this  
8 section.

9 “(2) SOURCE.—International reserve allowances  
10 under paragraph (1) shall be issued from a special  
11 reserve of allowances that is separate from, and es-  
12 tablished in addition to, the quantity of emission al-  
13 lowances established pursuant to section 711(a).

14 “(3) DATE OF SALE.—A United States im-  
15 porter shall be able to purchase international reserve  
16 allowances under this subsection by not later than  
17 the earliest date on which the Administrator distrib-  
18 utes allowances under part C.

19 “(4) PRICE.—

20 “(A) IN GENERAL.—The Administrator  
21 shall establish, by regulation, a methodology for  
22 determining the daily price of international re-  
23 serve allowances for sale under paragraph (1).

24 “(B) REQUIREMENT.—The methodology  
25 under subparagraph (A) shall require the Ad-  
26 ministrator—

1           “(i) not later than the date on which  
2           importers may first purchase international  
3           allowances under paragraph (3), and annu-  
4           ally thereafter, to identify 3 leading pub-  
5           licly reported daily price indices for the  
6           sale of emission allowances established  
7           pursuant to section 711(a); and

8           “(ii) for each day on which inter-  
9           national reserve allowances are offered for  
10          sale under this subsection, to establish the  
11          price of the allowances in an amount equal  
12          to the arithmetic mean of the market  
13          clearing price for an allowance for the pre-  
14          ceding day pursuant to section 711(a) on  
15          the indices identified under clause (i).

16          “(5) SERIAL NUMBER.—The Administrator  
17          shall assign a unique serial number to each inter-  
18          national reserve allowance issued under this sub-  
19          section.

20          “(6) TRADING SYSTEM.—The Administrator  
21          may establish, by regulation, a system for the sale,  
22          exchange, purchase, transfer, and banking of inter-  
23          national reserve allowances.

24          “(7) COVERED FACILITIES.—International re-  
25          serve allowances may not be held by covered facili-

1       ties to comply with the compliance obligations of sec-  
2       tion 712.

3           “(8) PROCEEDS.—All proceeds from the sale of  
4       international reserve allowances under this sub-  
5       section shall be allocated to carry out a program  
6       that the Administrator, in coordination with the Sec-  
7       retary of State, shall establish to mitigate the nega-  
8       tive impacts of global climate change on disadvan-  
9       tagged communities in foreign countries.

10       “(b) FOREIGN COUNTRY LISTS.—

11           “(1) IN GENERAL.—Not later than October 1  
12       prior to the calendar year for which emission allow-  
13       ances are required to be held under section 712, and  
14       annually thereafter, the Commission shall develop  
15       and publish in the Federal Register 2 lists of foreign  
16       countries, in accordance with this subsection.

17           “(2) EXCLUDED LIST.—

18           “(A) IN GENERAL.—The Commission shall  
19       identify and publish in a list, to be known as  
20       the ‘excluded list’ the name of—

21           “(i) each foreign country determined  
22       by the Commission under section 785(a) to  
23       have taken action comparable to that taken  
24       by the United States to limit the green-  
25       house gas emissions of the foreign country;

1           “(ii) each foreign country identified by  
2           the United Nations as among the least-de-  
3           veloped developing countries; and

4           “(iii) each foreign country the share  
5           of total global greenhouse gas emissions of  
6           which is below the de minimis percentage  
7           described in subparagraph (B).

8           “(B) DE MINIMIS PERCENTAGE.—

9           “(i) IN GENERAL.—The de minimis  
10          percentage referred to in subparagraph  
11          (A)(iii) shall be a percentage of total global  
12          greenhouse gas emissions of not more than  
13          0.5, as determined by the Commission, for  
14          the most recent calendar year for which  
15          emissions and other relevant data are  
16          available.

17          “(ii) REQUIREMENT.—The Commis-  
18          sion shall place a foreign country on the  
19          excluded list under subparagraph (A)(iii)  
20          only if the de minimis percentage is not ex-  
21          ceeded in 2 distinct determinations of the  
22          Commission—

23                  “(I) 1 of which reflects the an-  
24                  nual average deforestation rate during

1 a representative period for the United  
2 States and each foreign country; and

3 “(II) 1 of which does not reflect  
4 that annual average deforestation  
5 rate.

6 “(3) COVERED LIST.—

7 “(A) IN GENERAL.—The Commission shall  
8 identify and publish in a list, to be known as  
9 the ‘covered list’, the name of each foreign  
10 country the covered goods of which are subject  
11 to the requirements of this section.

12 “(B) REQUIREMENT.—The covered list  
13 shall include each foreign country that is not  
14 included on the excluded list under paragraph  
15 (2).

16 “(c) DECLARATIONS.—

17 “(1) IN GENERAL.—Effective beginning Janu-  
18 ary 1, [20xx: the year may depend on the allocation  
19 option], a United States importer of any covered  
20 good shall, as a condition of entry of the covered  
21 good into the United States, submit to the Adminis-  
22 trator and Customs a declaration with respect to the  
23 entry of such good, including a compliance state-  
24 ment, supporting documentation, and deposit in ac-  
25 cordance with this subsection.



1           “(2) COMPLIANCE STATEMENT.—A declaration  
2           under paragraph (1) shall include a statement certi-  
3           fying that the applicable covered good is—

4                   “(A) subject to the international reserve  
5                   allowance requirements of this section and ac-  
6                   companied by the appropriate supporting docu-  
7                   mentation and deposit, as required under para-  
8                   graph (3); or

9                   “(B) exempted from the international re-  
10                  serve allowance requirements of this section and  
11                  accompanied by a certification that the good  
12                  was not manufactured or processed in any for-  
13                  eign country that is on the covered list under  
14                  subsection (b)(3).

15           “(3) DOCUMENTATION AND DEPOSIT.—If an  
16           importer cannot certify that a covered good is ex-  
17           empted under paragraph (2)(B), the declaration for  
18           the covered good shall include—

19                   “(A) an identification of each foreign coun-  
20                   try in which the covered good was manufac-  
21                   tured or processed;

22                   “(B) a brief description of the extent to  
23                   which the covered good was manufactured or  
24                   processed in each foreign country identified  
25                   under subparagraph (A);

1           “(C) an estimate of the number of inter-  
2           national reserve allowances that are required  
3           for entry of the covered good into the United  
4           States under subsection (d); and

5           “(D) at the election of the importer, the  
6           deposit of—

7                   “(i) international reserve allowances  
8                   in a quantity equal to the estimated num-  
9                   ber required for entry under subparagraph  
10                  (C); or

11                  “(ii) a bond, other security, or cash in  
12                  an amount sufficient to cover the purchase  
13                  of the estimated number of international  
14                  reserve allowances under subparagraph  
15                  (C).

16           “(4) FINAL ASSESSMENT.—

17                   “(A) IN GENERAL.—Not later than 180  
18                  days after the date of submission of the dec-  
19                  laration and entry of a covered good under  
20                  paragraph (1), the Administrator shall make a  
21                  final assessment of the international reserve al-  
22                  lowance requirement for the covered good under  
23                  this section.

1           “(B) REQUIREMENT.—A final assessment  
2           under subparagraph (A) with respect to a cov-  
3           ered good shall specify—

4                   “(i) the total number of international  
5                   reserve allowances that are required for  
6                   entry of the covered good; and

7                   “(ii) the difference between—

8                           “(I) the amount of the deposit  
9                           under paragraph (3)(D); and

10                           “(II) the final assessment.

11           “(C) RECONCILIATION.—

12                   “(i) ALLOWANCE DEPOSIT.—

13                           “(I) IN GENERAL.—Customs  
14                           shall—

15                                   “(aa) promptly reconcile the  
16                                   final assessment under subpara-  
17                                   graph (A) with the quantity of  
18                                   international reserve allowances  
19                                   deposited under paragraph  
20                                   (3)(D)(i); and

21                                   “(bb) provide a notification  
22                                   of the reconciliation to the Ad-  
23                                   ministrators and each affected im-  
24                                   porter.

1                   “(II) EXCESS ALLOWANCES.—If  
2                   the quantity of international reserve  
3                   allowances deposited under paragraph  
4                   (3)(D)(i) exceed the quantity de-  
5                   scribed in the final assessment, Cus-  
6                   toms shall refund the excess quantity  
7                   of allowances.

8                   “(III) INSUFFICIENT ALLOW-  
9                   ANCES.—If the quantity of inter-  
10                  national reserve allowances described  
11                  in the final assessment exceeds the  
12                  quantity of allowances deposited  
13                  under paragraph (3)(D)(i), the appli-  
14                  cable importer shall submit to the Ad-  
15                  ministrator international reserve al-  
16                  lowances sufficient to satisfy the final  
17                  assessment by not later than 14 days  
18                  after the date on which the notice  
19                  under subclause (I)(bb) is provided.

20                  “(ii) BOND, SECURITY, OR CASH DE-  
21                  POSIT.—

22                  “(I) IN GENERAL.—If an im-  
23                  porter has submitted a bond, security,  
24                  or cash deposit under paragraph  
25                  (3)(D)(ii), Customs shall use the de-

1                   posit to purchase a sufficient number  
2                   of international reserve allowances, as  
3                   determined in the final assessment  
4                   under subparagraph (A).

5                   “(II) INSUFFICIENT DEPOSIT.—  
6                   To the extent that the amount of the  
7                   deposit fails to cover the purchase of  
8                   sufficient international reserve allow-  
9                   ances under subclause (I), the im-  
10                  porter shall submit such additional al-  
11                  lowances as are necessary to cover the  
12                  shortage.

13                  “(III) EXCESS DEPOSIT.—To the  
14                  extent that the amount of the deposit  
15                  exceeds the price of international re-  
16                  serve allowances required under the  
17                  final assessment, Customs shall re-  
18                  fund to the importer the unused por-  
19                  tion of the deposit.

20                  “(5) INCLUSION.—A declaration required under  
21                  this subsection shall include the unique serial num-  
22                  ber of each emission allowance associated with the  
23                  entry of the applicable covered good.

24                  “(6) FAILURE TO DECLARE.—A covered good  
25                  that is not accompanied by a declaration that meets

1 the requirements of this subsection shall not be per-  
2 mitted to enter the United States.

3 “(7) CORRECTED DECLARATION.—

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

12 “(B) METHOD.—A corrected declaration  
13 under subparagraph (A) shall be in the form of  
14 a letter or other statement to the Administrator  
15 and the Customs office to which the original  
16 declaration was submitted.

17 “(d) QUANTITY OF ALLOWANCES REQUIRED.—

18 “(1) METHODOLOGY.—

19 “(A) IN GENERAL.—The Administrator  
20 shall establish, by regulation, a method for cal-  
21 culating the required number of international  
22 reserve allowances that a United States im-  
23 porter is required to submit, together with a  
24 declaration under subsection (c), for each cat-

1           egory of covered goods of each covered foreign  
2           country.

3           “(B)    REQUIREMENTS.—The    method  
4           shall—

5                   “(i) apply to covered goods that are  
6                   manufactured and processed entirely in a  
7                   single covered foreign country; and

8                   “(ii) require submission for a compli-  
9                   ance year of the quantity of international  
10                  reserve allowances described in paragraph  
11                  (2) for calculating the international reserve  
12                  allowance requirement on a per-unit basis  
13                  for each category of covered goods that are  
14                  entered into the United States from that  
15                  covered foreign country during each com-  
16                  pliance year.

17           “(2)   GENERAL FORMULA.—The quantity of  
18           international reserve allowances required to be sub-  
19           mitted for a compliance year referred to in para-  
20           graph (1) shall be the product obtained by multi-  
21           plying—

22                   “(A) the national greenhouse gas intensity  
23                   rate for each category of covered goods of each  
24                   covered foreign country for the compliance year,

1 as determined by the Administrator under para-  
2 graph (3);

3 “(B) the allowance adjustment factor for  
4 the industry sector of the covered foreign coun-  
5 try that manufactured the covered goods en-  
6 tered into the United States, as determined by  
7 the Administrator under paragraph (4); and

8 “(C) the economic adjustment ratio for the  
9 covered foreign country, as determined by the  
10 Commission under paragraph (5).

11 “(3) NATIONAL GREENHOUSE GAS INTENSITY  
12 RATE.—The national greenhouse gas intensity rate  
13 for a covered foreign country under paragraph  
14 (2)(A), on a per-unit basis, shall be the quotient ob-  
15 tained by dividing—

16 “(A) the total quantity of direct green-  
17 house gas emissions and indirect greenhouse  
18 gas emissions that are attributable to a cat-  
19 egory of covered goods of a covered foreign  
20 country during the most recent calendar year  
21 (as adjusted to exclude those emissions that  
22 would not be subject to the allowance holding  
23 requirements of section 712 for the category of  
24 covered goods if manufactured in the United  
25 States); by



1           “(B) total number of units of the covered  
2           good that are produced in the covered foreign  
3           country during that calendar year.

4           “(4) ALLOWANCE ADJUSTMENT FACTOR  
5           【NOTE: THE ALLOWANCE ADJUSTMENT FACTOR  
6           WILL VARY DEPENDING ON WHICH ALLOWANCE AL-  
7           LOCATION OPTION IS USED】.—

8           “(A) GENERAL FORMULA.—The allowance  
9           adjustment factor for a covered foreign country  
10          under paragraph (2)(B) shall be equal to 1  
11          minus the ratio that—

12                 “(i) the number of allowances, as de-  
13                 termined by the Administrator under sub-  
14                 paragraph (B), that an industry sector of  
15                 the covered foreign country would have re-  
16                 ceived at no cost if the allowances were al-  
17                 located in the same manner in which allow-  
18                 ances are allocated at no cost under part  
19                 C to that industry sector of the United  
20                 States; bears to

21                 “(ii) the total quantity of direct green-  
22                 house gas emissions and indirect green-  
23                 house gas emissions that are attributable  
24                 to a category of covered goods of a covered

1 foreign country during a particular compli-  
2 ance year.

3 “(B) ALLOWANCES ALLOCATED AT NO  
4 COST.—For purposes of subparagraph (A)(i),  
5 the number of allowances that would have been  
6 allocated at no cost to an industry sector of a  
7 covered foreign country shall be equal to the  
8 product obtained by multiplying—

9 “(i) the baseline emission level that  
10 the Commission has attributed to a cat-  
11 egory of covered goods of the covered for-  
12 eign country; and

13 “(ii) the ratio that—

14 “(I) the quantity of allowances  
15 that are allocated at no cost under  
16 part C to entities in the industry sec-  
17 tor that manufactures the covered  
18 goods for the compliance year during  
19 which the covered goods were entered  
20 into the United States; bears to

21 “(II) the total quantity of direct  
22 greenhouse gas emissions and indirect  
23 greenhouse gas emissions of that sec-  
24 tor during the same compliance year.

1           “(5) ECONOMIC ADJUSTMENT RATIO.—The eco-  
2           nomic adjustment ratio for a covered foreign country  
3           under paragraph (2)(C) shall be 1, except in any  
4           case in which the Commission determines to de-  
5           crease the ratio in order to account for the extent  
6           to which, during the relevant period, the foreign  
7           country has implemented, verified, and enforced all  
8           of the following actions—

9                   “(A) the deployment and use of commer-  
10                  cially available state-of-the-art technologies in  
11                  industrial processes, equipment manufacturing  
12                  facilities, power generation and other energy fa-  
13                  cilities, consumer goods (such as automobiles  
14                  and appliances) and other techniques or actions  
15                  that limit the greenhouse gas emissions of the  
16                  covered foreign country during the relevant pe-  
17                  riod; and

18                   “(B) any regulatory programs, require-  
19                  ments, and other measures that the foreign  
20                  country has implemented to limit greenhouse  
21                  gas emissions during the relevant period.

22           “(6) ANNUAL CALCULATION.—The Adminis-  
23           trator shall—

1           “(A) calculate the international reserve al-  
2           lowance requirements for each compliance year  
3           based on the best available information; and

4           “(B) annually revise the applicable inter-  
5           national reserve allowance requirements to re-  
6           flect changes in the variables of the formulas  
7           described in this subsection.

8           “(7) PUBLICATION.—Not later than 90 days  
9           before the beginning of each compliance year, the  
10          Administrator shall publish in the Federal Register  
11          a schedule describing the required number of inter-  
12          national reserve allowances for each category of im-  
13          ported covered goods of each covered foreign coun-  
14          try, as calculated under this subsection.

15          “(8) COVERED GOODS FROM MULTIPLE COUN-  
16          TRIES.—

17                 “(A) IN GENERAL.—The Administrator  
18                 shall establish, by regulation, procedures for de-  
19                 termining the number of the international re-  
20                 serve allowances that a United States importer  
21                 is required to submit under this section for a  
22                 category of covered goods that are—

23                         “(i) primary products; and

24                         “(ii) manufactured or processed in  
25                         more than 1 foreign country.

1 “(B) REQUIREMENTS.—

2 “(i) IN GENERAL.—Except as pro-  
3 vided in clause (ii), the procedures estab-  
4 lished under subparagraph (A) shall re-  
5 quire an importer—

6 “(I) to determine, for each cov-  
7 ered foreign country listed in the dec-  
8 laration of the importer under sub-  
9 section (c)(3)(A), the number of inter-  
10 national reserve allowances required  
11 under this subsection for the category  
12 of covered goods manufactured and  
13 processed entirely in that covered for-  
14 eign country for the compliance year;  
15 and

16 “(II) of the international reserve  
17 allowance requirements applicable to  
18 each relevant covered foreign country,  
19 to apply the requirement that requires  
20 the highest number of international  
21 reserve allowances for the category of  
22 covered goods.

23 “(C) EXCEPTION.—

24 “(i) IN GENERAL.—The requirements  
25 of subparagraph (B), shall not apply if, on

1 request by an importer, the Administrator  
2 applies an alternate method for estab-  
3 lishing the requirement.

4 “(ii) REQUIREMENT FOR APPLICA-  
5 TION.—The Administrator shall apply an  
6 alternate method for establishing a re-  
7 quirement under subparagraph (B) only if  
8 the applicable importer demonstrates in an  
9 administrative hearing by a preponderance  
10 of evidence that the alternate method will  
11 establish an international reserve allowance  
12 requirement that is more representative  
13 than the requirement that would otherwise  
14 apply under subparagraph (B).

15 “(D) ADMINISTRATIVE HEARING.—The  
16 Administrator shall establish procedures for ad-  
17 ministrative hearings under subparagraph  
18 (C)(ii) to ensure that—

19 “(i) all evidence submitted by an im-  
20 porter will be subject to verification by the  
21 Administrator;

22 “(ii) domestic manufactures of the  
23 category of covered goods subject to the  
24 administrative hearing will have an oppor-

1                   tunity to review and comment on evidence  
2                   submitted by the importer; and

3                   “(iii) appropriate penalties will be as-  
4                   sessed in cases in which the importer has  
5                   submitted information that is false or mis-  
6                   leading.

7                   “(e) FOREIGN ALLOWANCES AND CREDITS.—

8                   “(1) FOREIGN ALLOWANCES.—

9                   “(A) IN GENERAL.—A United States im-  
10                  porter may submit, in lieu of an international  
11                  reserve allowance issued under this section, a  
12                  foreign allowance or similar compliance instru-  
13                  ment distributed by a foreign country pursuant  
14                  to a cap-and-trade program that constitutes  
15                  comparable action.

16                  “(B) COMMENSURATE CAP-AND-TRADE  
17                  PROGRAM.—For purposes of subparagraph (A),  
18                  a cap-and-trade program that constitutes com-  
19                  parable action shall include any greenhouse gas  
20                  regulatory program adopted by a covered for-  
21                  eign country to limit the greenhouse gas emis-  
22                  sions of the covered foreign country, if the Ad-  
23                  ministrator certifies that the program—

24                  “(i)(I) places a quantitative limitation  
25                  on the total quantity of greenhouse gas

1 emissions of the covered foreign country  
2 (expressed in terms of tons emitted per  
3 calendar year); and

4 “(II) achieves that limitation through  
5 an allowance trading system;

6 “(ii) satisfies such criteria as the Ad-  
7 ministrator may establish for requirements  
8 relating to the enforceability of the cap-  
9 and-trade program, including requirements  
10 for monitoring, reporting, verification pro-  
11 cedures, and allowance tracking; and

12 “(iii) is a comparable action.

13 “(2) FOREIGN CREDITS.—

14 “(A) IN GENERAL.—A United States im-  
15 porter may submit, in lieu of an international  
16 reserve allowance issued under this section, an  
17 international offset credit that the Adminis-  
18 trator has authorized for use under section 762.

19 “(B) APPLICATION.—The limitation on the  
20 use of international reserve allowances by cov-  
21 ered entities under subsection (a)(7) shall not  
22 apply to a United States importer for purposes  
23 of this paragraph.

24 “(f) RETIREMENT OF ALLOWANCES.—The Adminis-  
25 trator shall retire each international reserve allowance,



1 foreign allowance, and international offset submitted to  
2 achieve compliance with this section.

3 “(g) **TERMINATION.**—The international reserve al-  
4 lowance requirements of this section shall cease to apply  
5 to a covered good of a covered foreign country if the Com-  
6 mission places the covered foreign country on the excluded  
7 list under subsection (b)(2).

8 “(h) **FINAL REGULATIONS.**—Not later than January  
9 1, 2013, the Administrator, in consultation with the Com-  
10 mission, shall promulgate such regulations as the Admin-  
11 istrator determines to be necessary to carry out this sec-  
12 tion.

13 **“SEC. 787. ADJUSTMENT OF INTERNATIONAL RESERVE AL-**  
14 **LOWANCE REQUIREMENTS.**

15 “(a) **IN GENERAL.**—Not later than January 1, 2017,  
16 and annually thereafter, the Commission shall prepare and  
17 submit to the President and Congress a report that as-  
18 sesses the effectiveness of the international reserve allow-  
19 ance requirements under section 786 with respect to—

20 “(1) covered goods entered into the United  
21 States from each foreign country included on the  
22 covered list under section 786(b)(3); and

23 “(2) the production of covered goods in those  
24 foreign countries that are incorporated into manu-

1        factured goods that are subsequently entered into  
2        the United States.

3        “(b) INADEQUATE REQUIREMENTS.—If the Commis-  
4        sion determines that an applicable international reserve al-  
5        lowance requirement is not adequate to achieve the pur-  
6        poses of this part, the Commission shall include in the re-  
7        port under subsection (a) recommendations—

8                “(1) to increase the stringency or otherwise im-  
9                prove the effectiveness of the applicable require-  
10              ments in a manner that ensures compliance with all  
11              applicable international agreements;

12              “(2) to address greenhouse gas emissions at-  
13              tributable to the production of manufactured items  
14              for consumption that are not subject to the inter-  
15              national reserve allowance requirements under sec-  
16              tion 786; or

17              “(3) to take such other action as the Commis-  
18              sion determines to be necessary to address green-  
19              house gas emissions attributable to the production of  
20              covered goods in covered foreign countries, in com-  
21              pliance with all applicable international agreements.

22        “(c) REVISED REGULATIONS.—The Administrator,  
23        in consultation with the Commission, shall promulgate re-  
24        vised regulations to implement the recommended changes

1 to improve the effectiveness of the international reserve  
2 allowance requirements under subsection (b).

3 “(d) EFFECTIVE DATE.—Any revisions made pursu-  
4 ant to subsection (c) shall take effect on January 1 of  
5 the compliance year immediately following the date on  
6 which the revision is made.”.

7 **SEC. 102. CONFORMING AMENDMENTS.**

8 (a) FEDERAL ENFORCEMENT.—Section 113 of the  
9 Clean Air Act (42 U.S.C. 7413) is amended as follows:

10 (1) In subsection (a)(3), by striking “or title  
11 VI,” and inserting “title VI, title VII, or title VIII”.

12 (2) In subsection (b), by striking “or a major  
13 stationary source” and inserting “a major stationary  
14 source, a covered entity under title VII, or a covered  
15 EGU under title VIII,” in the material preceding  
16 paragraph (1).

17 (3) In paragraph (2), by striking “or title VI”  
18 and inserting “title VI, title VII, or title VIII”.

19 (4) In subsection (c)—

20 (A) in the first sentence of paragraph (1),  
21 by striking “or title VI (relating to strato-  
22 spheric ozone control),” and inserting “title VI  
23 (relating to stratospheric ozone control), or title  
24 VII or VIII (relating to reduction of greenhouse  
25 gas emissions),”; and

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

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

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

8 (b) INSPECTIONS, MONITORING, AND ENTRY.—Sec-  
9 tion 114(a) of the Clean Air Act (42 U.S.C. 7414(a)) is  
10 amended by striking “section 112,” and all that follows  
11 through “(ii)” and inserting the following: “section 112,  
12 any regulation of solid waste combustion under section  
13 129, or any regulation of greenhouse gas emissions under  
14 title VII or VIII, (ii)”.

15 (c) RETENTION OF STATE AUTHORITY.—Section 116  
16 of the Clean Air Act (42 U.S.C. 7416) is amended—

17 (1) by striking “and 213” and inserting “213”;  
18 and

19 (2) by inserting “, and 733” after “of moving  
20 sources)”.

21 (d) ADMINISTRATIVE PROCEEDINGS AND JUDICIAL  
22 REVIEW.—Section 307 of the Clean Air Act (42 U.S.C.  
23 7607) is amended as follows:

1 (1) In subsection (a), by striking “, or section  
2 306” and inserting “section 306, or title VII or  
3 VIII”.

4 (2) In subsection (b)(1)—

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

7 (B) by striking “section 120,” in the first  
8 sentence and inserting “section 120, any final  
9 action under title VII or VIII,”.

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

12 “(S) the promulgation or revision of any  
13 regulation under title VII or VIII,”.

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

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

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

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

21 **“SEC. 401. PURPOSES.**

22 “The purposes of this part are to—

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

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

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

6 “(3) ensure that those markets will function in  
7 a stable and efficient manner so as to avoid harm  
8 to the environmental objectives of titles VII and VIII  
9 of the Clean Air Act or the United States economy.

10 **“SEC. 402. DEFINITIONS.**

11 “In this part:

12 “(1) CARBON CLEARING ORGANIZATION.—

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

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

24 “(ii) arranges or provides, on a multi-  
25 lateral basis, for the settlement or netting

1 of obligations resulting from agreements,  
2 contracts, or transactions involving regu-  
3 lated instruments executed by participants  
4 in the organization; or

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

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

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

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

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

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

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

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

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

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

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



1           “(7) EMISSION ALLOWANCE.—The term ‘emis-  
2           sion allowance’ has the meaning given that term in  
3           section 700(13) of the Clean Air Act .

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

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

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

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

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

11           “(12) OFFSET CREDIT.—The term ‘offset cred-  
12        it’ has the meaning given that term in section  
13        700(28) of the Clean Air Act.

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

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

20           “(A) which—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 “(e) COORDINATION WITH ENVIRONMENTAL PRO-  
15 TECTION AGENCY.—In implementing this part, the Com-  
16 mission shall, as appropriate, consult and coordinate with  
17 the Administrator of the Environmental Protection Agen-  
18 cy.

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

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

22 “(1) CARBON TRADING FACILITY ACTIVITIES.—

23 “(A) IN GENERAL.—It shall be unlawful  
24 for a person to offer to enter into, execute, con-  
25 firm the execution of, or conduct an office or a

1 business for the purpose of soliciting, accepting  
2 an order for, or otherwise dealing in, an agree-  
3 ment, contract, or transaction involving a con-  
4 tract for the purchase or sale of a regulated in-  
5 strument, unless—

6 “(i) the transaction is conducted on or  
7 subject to the rules of a trading facility  
8 designated as a registered carbon trading  
9 facility under section 405(a);

10 “(ii) the contract for the purchase or  
11 sale is executed or consummated by or  
12 through such a trading facility; and

13 “(iii) the contract for the purchase or  
14 sale is evidenced by a record in writing  
15 which shows the date, the parties to the  
16 contract and their addresses, the property  
17 covered and its price, and the terms of de-  
18 livery.

19 “(B) EXCEPTION FOR DERIVATIVE TRANS-  
20 ACTIONS BETWEEN ELIGIBLE CONTRACT PAR-  
21 TICIPANTS.—Subparagraph (A) shall not apply  
22 to an agreement, contract, or transaction in-  
23 volving only a regulated allowance derivative be-  
24 tween persons who are eligible contract partici-

1 pants at the time at which the persons enter  
2 into the agreement, contract, or transaction.

3 “(2) **BROKER OR DEALER ACTIVITIES.**—It shall  
4 be unlawful for a person to act in the capacity of an  
5 introducing broker, a dealer, a floor broker, or a  
6 floor trader, in connection with the purchase or sale  
7 of a regulated instrument, unless the person is reg-  
8 istered in that capacity with the Commission, and  
9 the registration is not suspended, revoked, or ex-  
10 pired.

11 “(3) **CARBON CLEARING ORGANIZATION ACTIVI-**  
12 **TIES.**—

13 “(A) **IN GENERAL.**—It shall be unlawful  
14 for an entity, directly or indirectly, to perform  
15 the functions described in section 402(1) with  
16 respect to a regulated instrument, unless the  
17 entity is registered with the Commission as a  
18 carbon clearing organization under section  
19 405(c), and the registration is not suspended,  
20 revoked, or expired.

21 “(B) **EXCEPTION FOR CLEARING OF DE-**  
22 **RIVATIVE TRANSACTIONS BETWEEN ELIGIBLE**  
23 **CONTRACT PARTICIPANTS.**—Subparagraph (A)  
24 shall not apply to functions performed with re-  
25 spect to an agreement, contract, or transaction

1 involving only a regulated allowance derivative  
2 between persons who are eligible contract par-  
3 ticipants at the time at which the persons enter  
4 into the agreement, contract, or transaction.

5 “(b) PROHIBITION ON PRICE OR MARKET MANIPU-  
6 LATION, FRAUD, AND FALSE OR MISLEADING STATE-  
7 MENTS OR REPORTS.—It shall be unlawful for a person,  
8 directly or indirectly—

9 “(1) in connection with a transaction involving  
10 a regulated instrument, to—

11 “(A) use any manipulative or deceptive de-  
12 vice or contrivance in violation of such regula-  
13 tions as the Commission may prescribe to pro-  
14 tect the public interest or consumers;

15 “(B) corner or attempt to corner the in-  
16 strument; or

17 “(C) cheat or defraud, or attempt to cheat  
18 or defraud, any other person;

19 “(2) for the purpose of creating a false or mis-  
20 leading appearance of active trading in a regulated  
21 instrument, or a false or misleading appearance with  
22 respect to the market for such an instrument, to—

23 “(A) effect any transaction in the instru-  
24 ment which involves no change in the beneficial  
25 ownership of the instrument;



1           “(B) enter an order for the purchase of  
2           the instrument, with the knowledge that an  
3           order or orders of substantially the same size,  
4           at substantially the same time, and at substan-  
5           tially the same price, for the sale of any such  
6           instrument, has been or will be entered by or  
7           for the same or different parties; or

8           “(C) enter an order for the sale of the in-  
9           strument with the knowledge that an order or  
10          orders of substantially the same size, at sub-  
11          stantially the same time, and at substantially  
12          the same price, for the purchase of the instru-  
13          ment, has been or will be entered by or for the  
14          same or different parties;

15          “(3) to deliver or cause to be delivered a know-  
16          ingly false, misleading, or inaccurate report con-  
17          cerning information or conditions that affect or tend  
18          to affect the price of a regulated instrument;

19          “(4) to make, or cause to be made, in an appli-  
20          cation, report, or document required to be filed  
21          under this part or any rule or regulation prescribed  
22          under this part, a statement which is false or mis-  
23          leading with respect to a material fact, or to omit  
24          any material fact required to be stated therein or

1 necessary to make the statements therein not mis-  
2 leading; or

3 “(5) to falsify, conceal, or cover up by any  
4 trick, scheme, or artifice a material fact, make any  
5 false, fictitious, or fraudulent statements or rep-  
6 resentations, or make or use any false writing or  
7 document that contains a false, fictitious, or fraudu-  
8 lent statement or entry, to an entity registered  
9 under this part acting in furtherance of its official  
10 duties under this part.

11 “(c) PREVENTION OF EXCESSIVE SPECULATION.—

12 “(1) IN GENERAL.—To prevent, decrease, or  
13 eliminate burdens associated with excessive specula-  
14 tion relating to regulated instruments, the Commis-  
15 sion shall prescribe regulations establishing such po-  
16 sition or transaction limitations and position ac-  
17 countability requirements as the Commission deter-  
18 mines to be necessary with respect to any regulated  
19 instrument.

20 “(2) INAPPLICABILITY TO BONA FIDE HEDGING  
21 TRANSACTIONS AND POSITIONS.—The limitations  
22 and requirements prescribed under paragraph (1)  
23 shall not apply to a position or transaction that is  
24 a bona fide hedging position or transaction, as de-

1        fined by the Commission consistent with the pur-  
2        poses of this part.

3        “(d) LARGE TRADER REPORTING.—

4               “(1) IDENTIFICATION REQUIREMENTS FOR  
5        LARGE TRADERS.—For the purpose of monitoring  
6        the effect on the markets of transactions involving a  
7        substantial volume or a large fair market value or  
8        exercise value and for the purpose of otherwise as-  
9        sisting the Commission in the enforcement of this  
10       part, each large trader shall—

11               “(A) provide such information to the Com-  
12       mission as the Commission may by regulation  
13       prescribe as necessary or appropriate, identi-  
14       fying the large trader and all accounts in or  
15       through which the large trader effects such a  
16       transaction; and

17               “(B) identify, in accordance with such reg-  
18       ulations as the Commission may prescribe as  
19       necessary or appropriate, to any broker or deal-  
20       er registered under this part, by or through  
21       whom the large trader directly or indirectly ef-  
22       fects transactions in regulated instruments, the  
23       large trader and all accounts directly or indi-  
24       rectly maintained with the broker or dealer by

1 the large trader in or through which the trans-  
2 actions are effected.

3 “(2) RECORDKEEPING AND REPORTING RE-  
4 QUIREMENTS FOR BROKERS AND DEALERS.—

5 “(A) RECORDKEEPING.—Each broker or  
6 dealer registered under this part shall make  
7 and keep for prescribed periods such records as  
8 the Commission, by regulation, deems necessary  
9 or appropriate with respect to transactions in  
10 regulated instruments that—

11 “(i) equal or exceed the reporting ac-  
12 tivity level; and

13 “(ii) are effected, directly or indi-  
14 rectly—

15 “(I) by or through the registered  
16 broker or dealer of a large trader;

17 “(II) for any person that the  
18 broker or dealer knows is a large  
19 trader; or

20 “(III) for any person that the  
21 broker or dealer has reason to know is  
22 a large trader on the basis of trans-  
23 actions effected by or through the  
24 broker or dealer.

1           “(B) REPORTING.—The records required  
2           under subparagraph (A) shall be available for  
3           reporting to the Commission on the morning of  
4           the day following the day the transactions are  
5           effected, and shall be reported to the Commis-  
6           sion immediately on request by the Director.

7           “(3) AGGREGATION RULES.—The Commission  
8           may prescribe regulations governing the manner in  
9           which transactions and accounts shall be aggregated  
10          for the purpose of this subsection, including aggre-  
11          gation on the basis of common ownership or control.

12          “(4) EXAMINATION OF BROKER AND DEALER  
13          RECORDS.—All records required to be made and  
14          kept pursuant to this subsection by brokers and  
15          dealers registered under this part, with respect to  
16          transactions effected by large traders, are subject at  
17          any time, or from time to time, to such reasonable  
18          periodic, special, or other examinations by represent-  
19          atives of the Commission as the Commission deems  
20          necessary or appropriate in the public interest, for  
21          the protection of investors, or otherwise in further-  
22          ance of the purposes of this part.

23          “(5) FACTORS TO BE CONSIDERED IN COMMIS-  
24          SION ACTIONS.—In carrying out this subsection, the  
25          Commission shall take into account—

1           “(A) existing reporting systems;

2           “(B) the costs associated with maintaining  
3 information with respect to transactions ef-  
4 fected by large traders and reporting the infor-  
5 mation to the Commission; and

6           “(C) the relationship between the United  
7 States and international markets in regulated  
8 instruments.

9           “(6) EXEMPTIONS.—The Commission, by regu-  
10 lation or order, consistent with the purposes of this  
11 part, may exempt any person or class of persons or  
12 any transaction or class of transactions, condi-  
13 tionally, on specified terms and conditions, or for  
14 stated periods, from the operation of this subsection  
15 and the regulations prescribed under this subsection.

16           “(7) AUTHORITY OF COMMISSION TO LIMIT DIS-  
17 CLOSURE OF INFORMATION.—Notwithstanding any  
18 other provision of law, the Commission shall not be  
19 compelled to disclose any information required to be  
20 kept or reported under this subsection. Nothing in  
21 this subsection shall authorize the Commission to  
22 withhold information from Congress, or prevent the  
23 Commission from complying with a request for infor-  
24 mation from any other Federal department or agen-  
25 cy requesting information for purposes within the

1 scope of its jurisdiction, or complying with an order  
2 of a court of the United States in an action brought  
3 by the United States or the Commission. For pur-  
4 poses of section 552 of title 5, United States Code,  
5 this subsection shall be considered a statute de-  
6 scribed in section 552(b)(3)(B).

7 “(8) DEFINITIONS.—In this subsection:

8 “(A) LARGE TRADER.—The term ‘large  
9 trader’ means every person who, for the per-  
10 son’s own account or an account for which the  
11 person exercises investment discretion, effects  
12 transactions for the purchase or sale of a regu-  
13 lated instrument, directly or indirectly by or  
14 through a broker or dealer registered under this  
15 part, in an aggregate amount equal to or in ex-  
16 cess of the identifying activity level.

17 “(B) IDENTIFYING ACTIVITY LEVEL.—The  
18 term ‘identifying activity level’ means trans-  
19 actions in regulated instruments at or above a  
20 level of volume, fair market value, or exercise  
21 value as shall be fixed from time to time by the  
22 Commission by regulation, specifying the time  
23 interval during which the transactions shall be  
24 aggregated.

1           “(C) REPORTING ACTIVITY LEVEL.—The  
2           term ‘reporting activity level’ means trans-  
3           actions in regulated instruments at or above a  
4           level of volume, fair market value, or exercise  
5           value as shall be fixed from time to time by the  
6           Commission by regulation or order, specifying  
7           the time interval during which the transactions  
8           shall be aggregated.

9           “(D) PERSON.—The term ‘person’ means  
10          a natural person, company, government, or po-  
11          litical subdivision, agency, or instrumentality of  
12          a government, and includes 2 or more persons  
13          acting as a partnership, limited partnership,  
14          syndicate, or other group, but does not include  
15          a foreign central bank.

16          “(e) RECORDKEEPING; REPORTING; ACCESS TO  
17          BOOKS AND RECORDS.—

18                 “(1) MEMBERS OF REGISTERED ENTITIES.—  
19          Each member of an entity registered under this part  
20          shall—

21                 “(A) keep books and records, and make  
22          such reports as are required by the Commis-  
23          sion, regarding the transactions and positions  
24          of the member, and the transactions and posi-  
25          tions of the customer involved, in regulated in-



1 instruments, in such form and manner, and for  
2 such period, as may be required by the Com-  
3 mission; and

4 “(B) make the books and records available  
5 for inspection by any representative of the Com-  
6 mission or the Department of Justice.

7 “(2) REGISTERED ENTITIES.—Each entity reg-  
8 istered under this part shall—

9 “(A) maintain daily trading records (in-  
10 cluding a time-stamped audit trail), that in-  
11 clude such information, in such form, and for  
12 such period as the Commission may require by  
13 regulation; and

14 “(B) make such reports from the records,  
15 at such times and places, and in such form, as  
16 the Commission may require by regulation to  
17 protect the public interest and the interest of  
18 persons trading in regulated instruments.

19 **“SEC. 405. REGISTRATION OF CARBON TRADING FACILI-**  
20 **TIES, BROKERS, DEALERS, AND CARBON**  
21 **CLEARING ORGANIZATIONS.**

22 “(a) CARBON TRADING FACILITIES.—

23 “(1) APPLICATION.—A trading facility may  
24 apply to the Commission for designation as a reg-  
25 istered carbon trading facility by submitting to the

1 Commission an application that contains such infor-  
2 mation and commitments as the Commission may  
3 require.

4 “(2) REQUIREMENTS FOR DESIGNATION.—To  
5 be designated as a registered carbon trading facility,  
6 the trading facility shall demonstrate to the Com-  
7 mission the following:

8 “(A) PREVENTION OF MARKET MANIPULA-  
9 TION.—The trading facility is capable of pre-  
10 venting market manipulation through market  
11 surveillance, compliance, and enforcement prac-  
12 tices and procedures, including methods for  
13 conducting real-time monitoring of trading and  
14 comprehensive and accurate trade reconstruc-  
15 tions.

16 “(B) FAIR AND EQUITABLE TRADING.—  
17 The trading facility has established, and is ca-  
18 pable of enforcing, rules to ensure fair and eq-  
19 uitable trading through the trading facility, and  
20 the capacity to detect, investigate, and dis-  
21 cipline any person that violates the rules.

22 “(C) ESTABLISHMENT AND ENFORCEMENT  
23 OF RULES GOVERNING OPERATION OF TRADE  
24 EXECUTION FACILITY.—The trading facility has  
25 established, and is capable of enforcing, rules

1 governing the manner of operation of the trade  
2 execution facility maintained by the trading fa-  
3 cility, including the operation of any electronic  
4 matching platform.

5 “(D) FINANCIAL INTEGRITY OF TRANS-  
6 ACTIONS.—The trading facility has established,  
7 and is capable of enforcing, rules and proce-  
8 dures for ensuring the financial integrity of  
9 transactions entered into by or through the  
10 trading facility, including the clearance and set-  
11 tlement of the transactions.

12 “(E) DISCIPLINARY PROCEDURES.—The  
13 trading facility has established, and is capable  
14 of enforcing procedures that authorize the trad-  
15 ing facility to discipline, suspend, or expel mem-  
16 bers or market participants that violate the  
17 rules of the trading facility, or similar methods  
18 for performing the same functions, including  
19 delegation of the functions to third parties.

20 “(F) PUBLIC ACCESS.—The trading facil-  
21 ity is capable of providing the public with ac-  
22 cess to the rules, regulations, and contract spec-  
23 ifications of the trading facility.

24 “(G) ABILITY TO OBTAIN INFORMATION.—  
25 The trading facility has established, and is ca-

1 pable of enforcing rules that allow the trading  
2 facility to obtain any necessary information to  
3 perform any of the functions described in this  
4 paragraph, including the capacity to carry out  
5 such international information-sharing agree-  
6 ments as the Commission may require.

7 “(3) MAINTENANCE OF DESIGNATION.—To  
8 maintain the designation of a trading facility as a  
9 registered carbon trading facility, the trading facility  
10 shall comply (and shall have reasonable discretion in  
11 establishing the manner in which it complies) with  
12 the following:

13 “(A) COMPLIANCE WITH RULES OF THE  
14 TRADING FACILITY.—The trading facility shall  
15 monitor and enforce compliance with the rules  
16 of the trading facility, including the terms and  
17 conditions of any contracts to be traded on or  
18 through the trading facility and any limitations  
19 on access to the trading facility.

20 “(B) CONTRACTS NOT READILY SUBJECT  
21 TO MANIPULATION.—The trading facility shall  
22 list on the trading facility only contracts that  
23 are not readily susceptible to manipulation.

24 “(C) MONITORING OF TRADING.—The  
25 trading facility shall monitor trading on or

1 through the facility to prevent manipulation,  
2 price distortion, and disruptions of the delivery  
3 or cash-settlement process.

4 “(D) POSITION LIMITATIONS OR ACCOUNT-  
5 ABILITY.—To reduce the potential threat of  
6 market manipulation, the trading facility shall  
7 adopt position limitations or position account-  
8 ability for speculators, where necessary and ap-  
9 propriate.

10 “(E) EMERGENCY AUTHORITY.—The trad-  
11 ing facility shall adopt rules to provide for the  
12 exercise of emergency authority, in consultation  
13 or cooperation with the Commission, where nec-  
14 essary and appropriate, including the authority  
15 to—

16 “(i) liquidate or transfer open posi-  
17 tions in any contract;

18 “(ii) suspend or curtail trading in any  
19 regulated instrument; and

20 “(iii) require market participants to  
21 meet special margin requirements.

22 “(F) AVAILABILITY OF GENERAL INFOR-  
23 MATION.—The trading facility shall make avail-  
24 able to market authorities, market participants,  
25 and the public information concerning—

1                   “(i) the terms and conditions of the  
2                   contracts traded on or through the trading  
3                   facility; and

4                   “(ii) the mechanisms for executing  
5                   transactions on or through the trading fa-  
6                   cility.

7                   “(G) DAILY PUBLICATION OF TRADING IN-  
8                   FORMATION.—The trading facility shall make  
9                   public daily information on settlement prices,  
10                  volume, open interest, and opening and closing  
11                  ranges for all regulated instruments traded on  
12                  the trading facility.

13                  “(H) EXECUTION OF TRANSACTIONS.—  
14                  The trading facility shall provide a competitive,  
15                  open, and efficient market and mechanism for  
16                  executing transactions on or through the trad-  
17                  ing facility.

18                  “(I) SECURITY OF TRADE INFORMATION.—  
19                  The trading facility shall maintain rules and  
20                  procedures to provide for the recording and safe  
21                  storage of all identifying trade information in a  
22                  manner that enables the trading facility to use  
23                  the information to assist the prevention of cus-  
24                  tomer and market abuses and provide evidence  
25                  of violations of the rules of the trading facility.

1           “(J) FINANCIAL INTEGRITY OF CON-  
2 TRACTS.—The trading facility shall establish  
3 and enforce rules providing for the financial in-  
4 tegrity of any contract traded on or through the  
5 trading facility (including the clearance and set-  
6 tlement of the transactions), and rules to en-  
7 sure the financial integrity of introducing bro-  
8 kers, dealers, floor brokers, and floor traders  
9 doing business on or through the trading facil-  
10 ity, and the protection of customer funds.

11           “(K) PROTECTION OF MARKET PARTICI-  
12 PANTS.—The trading facility shall establish and  
13 enforce rules to protect market participants  
14 from abusive practices committed by any party  
15 acting as an agent for the participants.

16           “(L) DISPUTE RESOLUTION.—The trading  
17 facility shall establish and enforce rules regard-  
18 ing and provide facilities for alternative dispute  
19 resolution as appropriate for market partici-  
20 pants and any market intermediaries.

21           “(M) GOVERNANCE FITNESS STAND-  
22 ARDS.—The trading facility shall establish and  
23 enforce appropriate fitness standards for direc-  
24 tors, members of any disciplinary committee,  
25 members of the trading facility, and any other

1 person with direct access to the trading facility  
2 (including any parties affiliated with any of the  
3 persons described in this subparagraph).

4 “(N) CONFLICTS OF INTEREST.—The  
5 trading facility shall establish and enforce rules  
6 to minimize conflicts of interest in the decision-  
7 making process of the trading facility and es-  
8 tablish a process for resolving any such conflict  
9 of interest.

10 “(O) COMPOSITION OF BOARDS OF MUTU-  
11 ALLY OWNED TRADING FACILITIES.—In the  
12 case of a mutually owned trading facility, the  
13 trading facility shall ensure that the composi-  
14 tion of the governing board reflects market par-  
15 ticipants.

16 “(P) RECORDKEEPING.—The trading facil-  
17 ity shall maintain records of all activities re-  
18 lated to the business of the trading facility in  
19 a form and manner acceptable to the Commis-  
20 sion for a period of 5 years.

21 “(Q) ANTITRUST CONSIDERATIONS.—Un-  
22 less necessary or appropriate to achieve the  
23 purposes of this part, the trading facility shall  
24 endeavor to avoid—



1                   “(i) adopting any rules or taking any  
2                   actions that result in any unreasonable re-  
3                   straints of trade; or

4                   “(ii) imposing any material anti-  
5                   competitive burden on trading on or  
6                   through the trading facility.

7           “(b) BROKERS, DEALERS, AND THEIR ASSOCI-  
8   ATES.—The Commission may prescribe regulations gov-  
9   erning—

10           “(1) the eligibility of a person to act in the ca-  
11           pacity of an introducing broker, a dealer, or a floor  
12           broker, or a floor trader in the United States;

13           “(2) the registration of introducing brokers,  
14           dealers, floor brokers, and floor traders with the  
15           Commission; and

16           “(3) the conduct of a person registered pursu-  
17           ant to regulations prescribed under paragraph (2),  
18           and of a partner, officer, employee, or agent of the  
19           registered person, in connection with transactions in-  
20           volving a regulated instrument.

21           “(c) CARBON CLEARING ORGANIZATIONS.—

22           “(1) APPLICATION.—An entity may apply to  
23           the Commission for registration as a carbon clearing  
24           organization by submitting to the Director an appli-  
25           cation that contains such information and commit-

1       ments as the Commission may require for the pur-  
2       pose of making the determinations required for ap-  
3       proval under paragraph (2).

4               “(2) REQUIREMENTS FOR REGISTRATION.—To  
5       be registered and to maintain registration as a car-  
6       bon clearing organization, an applicant shall dem-  
7       onstrate to the Commission that the applicant com-  
8       plies (and shall have reasonable discretion in estab-  
9       lishing the manner in which it complies) with the  
10      following core principles:

11              “(A) FINANCIAL RESOURCES.—The appli-  
12      cant shall demonstrate that the applicant has  
13      adequate financial, operational, and managerial  
14      resources to discharge the responsibilities of a  
15      carbon clearing organization.

16              “(B) PARTICIPANT AND PRODUCT ELIGI-  
17      BILITY.—The applicant shall establish—

18                  “(i) appropriate admission and con-  
19      tinuing eligibility standards (including ap-  
20      propriate minimum financial requirements)  
21      for members of and participants in the ap-  
22      plicant; and

23                  “(ii) appropriate standards for deter-  
24      mining eligibility of agreements, contracts,  
25      or transactions submitted to the applicant.

1           “(C) RISK MANAGEMENT.—The applicant  
2 shall have the ability to manage the risks asso-  
3 ciated with discharging the responsibilities of a  
4 carbon clearing organization through the use of  
5 appropriate tools and procedures.

6           “(D) SETTLEMENT PROCEDURES.—The  
7 applicant shall have the ability to—

8                   “(i) complete settlements on a timely  
9 basis under varying circumstances;

10                   “(ii) maintain an adequate record of  
11 the flow of funds associated with each  
12 transaction that the applicant clears; and

13                   “(iii) comply with the terms and con-  
14 ditions of any permitted netting or offset  
15 arrangements with other carbon clearing  
16 organizations.

17           “(E) TREATMENT OF FUNDS.—The appli-  
18 cant shall have standards and procedures de-  
19 signed to protect and ensure the safety of mem-  
20 ber and participant funds.

21           “(F) DEFAULT RULES AND PROCE-  
22 DURES.—The applicant shall have rules and  
23 procedures designed to allow for efficient, fair,  
24 and safe management of events when members

1 or participants become insolvent or otherwise  
2 default on their obligations to the applicant.

3 “(G) RULE ENFORCEMENT.—The appli-  
4 cant shall—

5 “(i) maintain adequate arrangements  
6 and resources for the effective monitoring  
7 and enforcement of compliance with rules  
8 of the applicant and for resolution of dis-  
9 putes; and

10 “(ii) have the authority and ability to  
11 discipline, limit, suspend, or terminate the  
12 activities of a member or participant for  
13 violations of rules of the applicant.

14 “(H) SYSTEM SAFEGUARDS.—The appli-  
15 cant shall demonstrate that the applicant—

16 “(i) has established and will maintain  
17 a program of oversight and risk analysis to  
18 ensure that the automated systems of the  
19 applicant function properly and have ade-  
20 quate capacity and security; and

21 “(ii) has established and will maintain  
22 emergency procedures and a plan for dis-  
23 aster recovery, and will periodically test  
24 backup facilities sufficient to ensure daily

1 processing, clearing, and settlement of  
2 transactions.

3 “(I) REPORTING.—The applicant shall pro-  
4 vide to the Director all information necessary  
5 for the Commission to conduct oversight of the  
6 activities of the applicant.

7 “(J) RECORDKEEPING.—The applicant  
8 shall maintain for a period of 5 years records  
9 of all activities related to the activities of the  
10 applicant as a carbon clearing organization in a  
11 form and manner acceptable to the Commis-  
12 sion.

13 “(K) PUBLIC INFORMATION.—The appli-  
14 cant shall make information concerning the  
15 rules and operating procedures governing the  
16 clearing and settlement systems (including de-  
17 fault procedures) available to market partici-  
18 pants.

19 “(L) INFORMATION-SHARING.—The appli-  
20 cant shall—

21 “(i) enter into and abide by the terms  
22 of all appropriate and applicable domestic  
23 and international information-sharing  
24 agreements; and

1                   “(ii) use relevant information obtained  
2                   from the agreements in carrying out the  
3                   risk management program of the applicant.

4                   “(M) ANTITRUST CONSIDERATIONS.—Un-  
5                   less appropriate to achieve the purposes of this  
6                   part, the applicant shall avoid—

7                   “(i) adopting any rule or taking any  
8                   action that results in any unreasonable re-  
9                   straint of trade; or

10                   “(ii) imposing any material anti-  
11                   competitive burden on trading on a reg-  
12                   istered carbon trading facility.

13   **“SEC. 406. ADMINISTRATIVE ENFORCEMENT.**

14                   “(a) REVIEW OF ADVERSE ACTION BY REGISTERED  
15   CARBON TRADING FACILITY.—

16                   “(1) IN GENERAL.—

17                   “(A) DISCIPLINARY ACTIONS.—The Com-  
18                   mission may, in accordance with such standards  
19                   and procedures as the Commission deems ap-  
20                   propriate, review a decision by a registered car-  
21                   bon trading facility to suspend, expel, otherwise  
22                   discipline a member of the trading facility, or  
23                   deny access to the trading facility.

24                   “(B) OTHER ACTIONS.—On application of  
25                   any person who is adversely affected by any

1 other registered carbon trading facility decision,  
2 the Commission may review the decision and  
3 issue such order with respect to the decision as  
4 the Commission deems appropriate to protect  
5 the public interest.

6 “(2) SCOPE OF AUTHORITY.—The Commission  
7 may affirm, modify, set aside, or remand a trading  
8 facility decision reviewed under paragraph (1), after  
9 a determination on the record as to whether the de-  
10 cision was made in accordance with the rules of the  
11 trading facility.

12 “(b) ENFORCEMENT PROCEEDINGS AGAINST CER-  
13 TAIN PERSONS.—If the Commission determines, after no-  
14 tice and an opportunity for a hearing on the record, that  
15 any person (other than a registered carbon trading facility  
16 or carbon clearing organization) has violated any provision  
17 of this part or any rule or order issued under this part,  
18 the Commission may issue an order—

19 “(1) prohibiting the person from trading on or  
20 subject to the rules of any registered carbon trading  
21 facility, and requiring all such facilities to refuse the  
22 person all privileges for such period as may be speci-  
23 fied in the order;

24 “(2) if the person is registered with the Com-  
25 mission in any capacity, suspending, for a period of

1 not more than 6 months, or revoking, the registra-  
2 tion of the person;

3 “(3) assessing the person, in accord with the  
4 gravity of the violation, a civil penalty of not more  
5 than the greater of \$1,000,000 or triple the mone-  
6 tary gain to the person for each such violation; and

7 “(4) requiring restitution to customers of dam-  
8 ages proximately caused by the violation.

9 “(c) AUTHORITY TO SUSPEND OR REVOKE REG-  
10 ISTERED CARBON TRADING FACILITY DESIGNATION OR  
11 CARBON CLEARING ORGANIZATION REGISTRATION.—The  
12 Commission may suspend for a period of not more than  
13 6 months, or revoke, the designation of a trading facility  
14 as a registered carbon trading facility, or the registration  
15 of an entity as a carbon clearing organization, if, after  
16 notice and opportunity for a hearing on the record, the  
17 Commission finds that—

18 “(1) the trading facility or the entity, as the  
19 case may be, has not complied with a requirement  
20 of section 405(a)(3), or section 405(c)(2), as the  
21 case may be; or

22 “(2) a director, officer, employee, or agent of  
23 the trading facility or entity, as the case may be, has  
24 violated this part or a regulation or order issued  
25 under this part.



1           “(d) CEASE AND DESIST ORDERS.—If the Commis-  
2 sion finds, after notice and an opportunity for a hearing  
3 on the record, that a person has violated this part or a  
4 regulation or order issued under this part, the Commission  
5 may issue an order directing the person to cease and desist  
6 from the violation.

7           “(e) ACTIONS TO COLLECT CIVIL PENALTIES.—If  
8 any person fails to pay a civil penalty assessed under this  
9 section after the order assessing the penalty has become  
10 a final and unappealable order, the Commission shall  
11 bring an action to recover the amount of the penalty in  
12 any appropriate United States district court. In any such  
13 action, the validity or appropriateness of the final assess-  
14 ment order or judgment shall not be subject to review.  
15 The Commission shall be represented by the Attorney  
16 General or the Solicitor General, as appropriate, in any  
17 action under this subsection.

18           “(f) SAVINGS CLAUSE.—The imposition of any pen-  
19 alty or enforcement measure under this section shall not  
20 bar the imposition of any penalty prescribed by section  
21 316 or any other provision of this Act, and shall be in  
22 addition to any such penalty.

1 **“SEC. 407. TRADING SUSPENSIONS AND EMERGENCY AU-**  
2 **THORITY.**

3 “(a) **TRADING SUSPENSIONS.**—If the Commission  
4 determines that the public interest so requires, the Com-  
5 mission may, by order, summarily suspend all trading of  
6 regulated instruments on any trading facility or otherwise,  
7 for a period not exceeding 90 calendar days. The action  
8 described in the preceding sentence shall not take effect  
9 unless the Commission notifies the President of the deci-  
10 sion of the Commission, and the President notifies the  
11 Commission that the President does not disapprove of the  
12 decision.

13 “(b) **EMERGENCY ORDERS.**—

14 “(1) **IN GENERAL.**—The Commission, in an  
15 emergency, may by order summarily take such ac-  
16 tion to alter, supplement, suspend, or impose re-  
17 quirements or restrictions with respect to any matter  
18 or action subject to regulation by the Commission or  
19 an entity registered under this part, as the Commis-  
20 sion determines is necessary in the public interest—

21 “(A) to maintain or restore fair and or-  
22 derly markets in regulated instruments; or

23 “(B) to ensure prompt, accurate, and safe  
24 clearance and settlement of transactions in reg-  
25 ulated instruments.

1           “(2) EFFECTIVE PERIOD.—An order of the  
2 Commission under this subsection shall continue in  
3 effect for the period specified by the Commission,  
4 and may be extended. Except as provided in para-  
5 graph (3), an order of the Commission under this  
6 paragraph may not continue in effect for more than  
7 10 business days, including extensions.

8           “(3) EXTENSION.—An order of the Commission  
9 under this subsection may be extended to continue  
10 in effect for more than 10 business days if, at the  
11 time of the extension, the Commission finds that the  
12 emergency still exists and determines that the con-  
13 tinuation of the order beyond 10 business days is  
14 necessary in the public interest and for the protec-  
15 tion of investors to attain an objective described in  
16 subparagraph (A) or (B) of paragraph (1). In no  
17 event shall an order of the Commission under this  
18 paragraph continue in effect for more than 30 cal-  
19 endar days.

20           “(4) EXEMPTION.—In exercising the authority  
21 provided by this paragraph, the Commission shall  
22 not be required to comply with section 553 of title  
23 5, United States Code.

24           “(c) TERMINATION OF EMERGENCY ACTIONS BY  
25 PRESIDENT.—The President may direct that action taken

1 by the Commission under subsection (b) shall not continue  
2 in effect.

3 “(d) COMPLIANCE WITH ORDERS.—A member of a  
4 trading facility, introducing broker, dealer, floor broker,  
5 or floor trader shall not effect any transaction in, or in-  
6 duce the purchase or sale of, any regulated instrument in  
7 contravention of an order of the Commission under this  
8 subsection, unless the order has been stayed, modified, or  
9 set aside as provided in subsection (e) or has ceased to  
10 be effective on direction of the President as provided in  
11 subsection (e).

12 “(e) LIMITATIONS ON REVIEW OF ORDERS.—An  
13 order of the Commission pursuant to this subsection shall  
14 be subject to review by the United States Court of Appeals  
15 for the District of Columbia Circuit. Review shall be based  
16 on an examination of all the information before the Com-  
17 mission at the time the order was issued. The reviewing  
18 court shall not enter a stay, writ of mandamus, or similar  
19 relief unless the court finds, after notice and hearing be-  
20 fore a panel of the court, that the Commission’s action  
21 is arbitrary, capricious, an abuse of discretion, or other-  
22 wise not in accordance with law.

23 “(f) EMERGENCY DEFINED.—In this subsection, the  
24 term ‘emergency’ means—

1           “(1) a major market disturbance characterized  
2           by or constituting—

3                   “(A) sudden and excessive fluctuations of  
4                   prices of regulated instruments generally, or a  
5                   substantial threat thereof, that threaten fair  
6                   and orderly markets; or

7                   “(B) a substantial disruption of the safe or  
8                   efficient operation of the national system for  
9                   clearance and settlement of transactions in reg-  
10                  ulated instruments, or a substantial threat  
11                  thereof; or

12           “(2) a major disturbance that substantially dis-  
13           rupts, or threatens to substantially disrupt—

14                   “(A) the functioning of markets in regu-  
15                   lated instruments, or any significant portion or  
16                   segment of the markets; or

17                   “(B) the transmission or processing of  
18                  transactions in regulated instruments.

19   **“SEC. 408. PUBLICATION OF INFORMATION.**

20           “(a) IN GENERAL.—The Commission may publish  
21           the results of any investigation undertaken to enforce or  
22           implement this part and such general statistical informa-  
23           tion gathered in the investigation as the Commission  
24           deems of interest to the public.

1           “(b) LIMITS ON PUBLIC DISCLOSURE OF INFORMA-  
2 TION AND DATA.—

3           “(1) IN GENERAL.—The Commission may not  
4 publish data and information that would separately  
5 disclose a transaction or market position of any per-  
6 son, a trade secret, or the names of a customer, ex-  
7 cept where the disclosure is made in connection with  
8 a congressional proceeding or in an administrative or  
9 judicial proceeding brought under this part.

10           “(2) AUTHORITY TO WITHHOLD INFORMA-  
11 TION.—The Commission may withhold from public  
12 disclosure any data or information concerning or ob-  
13 tained in connection with any pending investigation  
14 of any person under this part.

15           “(c) DISCLOSURE OF REGISTRATION INFORMATION  
16 TO OTHER GOVERNMENT ENTITIES.—The Commission  
17 shall provide any registration information maintained by  
18 the Commission under this part on any registrant on rea-  
19 sonable request made by any department or agency of any  
20 State or any political subdivision of a State. Whenever the  
21 Commission determines that the information may be ap-  
22 propriate for use by any department or agency of a State  
23 or political subdivision of a State, the Commission shall  
24 provide the information without request.

1 **“SEC. 409. MARKET REPORTS.**

2 “(a) COLLECTION AND ANALYSIS OF INFORMA-  
3 TION.—The Commission shall, on a continuous basis, col-  
4 lect and analyze the following information on the func-  
5 tioning of the markets for regulated instruments estab-  
6 lished under this part:

7 “(1) The status of, and trends in, the markets,  
8 including prices, trading volumes, transaction types,  
9 and trading channels and mechanisms.

10 “(2) Spikes, collapses, and volatility in prices of  
11 regulated instruments, and the causes therefor.

12 “(3) The relationship between the market for  
13 emission allowances, offset credits, and allowance de-  
14 rivatives, and the spot and futures markets for en-  
15 ergy commodities, including electricity.

16 “(4) Evidence of fraud or manipulation in any  
17 such market, the effects on any such market of any  
18 such fraud or manipulation (or threat of fraud or  
19 manipulation) that the Commission has identified,  
20 and the effectiveness of corrective measures under-  
21 taken by the Commission to address the fraud or  
22 manipulation, or threat.

23 “(5) The economic effects of the markets, in-  
24 cluding to macro- and micro-economic effects of un-  
25 expected significant increases and decreases in the  
26 price of regulated instruments.

1           “(6) Any changes in the roles, activities, or  
2 strategies of various market participants.

3           “(7) Regional, industrial, and consumer re-  
4 sponses to the market, and energy investment re-  
5 sponses to the markets.

6           “(8) Any other issue related to the markets  
7 that the Commission deems appropriate.

8           “(b) QUARTERLY REPORTS TO THE CONGRESS.—  
9 Not later than 1 month after the end of each calendar  
10 quarter, the Commission shall submit to the President, the  
11 Committee on Energy and Commerce of the House of  
12 Representatives, and the Committee on Environment and  
13 Public Works of the Senate, and make available to the  
14 public, a report on the matters described in subsection (a)  
15 with respect to the quarter, including recommendations  
16 for any administrative or statutory measures the Commis-  
17 sion considers necessary to address any threats to the  
18 transparency, fairness, or integrity of the markets in regu-  
19 lated instruments.”.

20 **SEC. 202. CONFORMING AMENDMENTS.**

21           (a) GENERAL FORFEITURE PROVISION.—Section  
22 315 of the Federal Power Act (16 U.S.C. 825n) is amend-  
23 ed by striking “or 214” and all that follows and inserting  
24 “214, or part IV of this Act, or any rule or order issued  
25 under any such provision or part.”.



1 (b) JUDICIAL REVIEW.—Section 313(b) of the Fed-  
2 eral Power Act (16 U.S.C. 8251) is amended by making  
3 the existing matter a new paragraph (1) preceded by the  
4 heading “IN GENERAL” and by inserting the following at  
5 the end:

6 “(2) EXCEPTION FOR ACTIONS UNDER PART  
7 IV.—Paragraph (1) shall govern any petition for re-  
8 view of any final action taken by the Commission  
9 pursuant to Part IV of this Act, except that, not-  
10 withstanding paragraph (1), the United States  
11 Court of Appeals for the District of Columbia Cir-  
12 cuit shall have exclusive jurisdiction to review any  
13 such action.”.

14 **TITLE III—GREENHOUSE GAS**  
15 **STANDARDS**

16 **SEC. 301. AMENDMENT OF CLEAN AIR ACT.**

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

20 **“TITLE VIII—GREENHOUSE GAS**  
21 **STANDARDS**

22 **“SEC. 801. DEFINITIONS.**

23 “For purposes of this title, terms that are defined  
24 in title VII, except for the term ‘stationary source’, shall  
25 have the meaning given those terms in title VII.

1 **“PART A—STANDARDS**

2 **“SEC. 811. STANDARDS OF PERFORMANCE.**

3 “(a) NEW SOURCE STANDARDS OF PERFORM-  
4 ANCE.—

5 “(1) LIST OF SOURCE CATEGORIES.—Within 12  
6 months after the date of enactment of this title, the  
7 Administrator shall publish under section  
8 111(b)(1)(A) a list of categories of industrial sources  
9 that have greenhouse gas emissions that are not  
10 subject to any limitation under title VII. The list  
11 under this paragraph shall include sources the emis-  
12 sions from which, when added to the emissions from  
13 the industrial sector that are subject to limitation  
14 under title VII, will constitute at least 95 percent of  
15 the greenhouse gas emissions of the industrial sec-  
16 tor.

17 “(2) STANDARDS OF PERFORMANCE.—For each  
18 category listed as provided in paragraph (1), the Ad-  
19 ministrator shall promulgate standards of perform-  
20 ance under section 111 for the emission of green-  
21 house gases from stationary sources in that category  
22 for those emissions that are not subject to limitation  
23 under title VII. Such standards shall be promulgated  
24 in accordance with the schedule set forth in sub-  
25 section (b).

1           “(3) EMISSION LIMITS.—In the case of the  
2           emission of any greenhouse gas from any category of  
3           stationary sources referred to in paragraph (1), the  
4           Administrator may promulgate a design, equipment,  
5           work practice, or operational standard, or any com-  
6           bination thereof under section 111 in lieu of a stand-  
7           ard of performance under that section without re-  
8           gard to any determination of feasibility that would  
9           otherwise be required under section 111(h).

10          “(b) SCHEDULE FOR STANDARDS.—

11               “(1) IN GENERAL.—The Administrator shall  
12               promulgate standards as required by subsection  
13               (a)(2) for stationary sources in categories listed as  
14               provided in subsection (a)(1) as expeditiously as  
15               practicable, assuring that—

16                       “(A) standards for not less than 25 per-  
17                       cent of the listed categories shall be promul-  
18                       gated not later than 3 years after the date of  
19                       the enactment of this section;

20                       “(B) standards for not less than an addi-  
21                       tional 25 percent of the listed categories shall  
22                       be promulgated not later than 5 years after the  
23                       date of enactment of this title;

24                       “(C) standards for not less than an addi-  
25                       tional 25 percent of the listed categories shall

1 be promulgated not later than 7 years after the  
2 date of enactment of this title; and

3 “(D) standards for all the listed categories  
4 shall be promulgated not later than 10 years  
5 after the date of enactment of this title.

6 “(2) PUBLISHED SCHEDULE.—Not later than  
7 24 months after the date of enactment of this title  
8 and after opportunity for comment, the Adminis-  
9 trator shall publish a schedule establishing a date  
10 for the promulgation of standards for each category  
11 of sources listed pursuant to subsection (a)(1). The  
12 date for each category shall be consistent with the  
13 requirements of paragraph (1). The determination of  
14 priorities for the promulgation of standards pursu-  
15 ant to this paragraph is not a rulemaking and shall  
16 not be subject to judicial review, except that failure  
17 to promulgate any standard pursuant to the sched-  
18 ule established by this paragraph shall be subject to  
19 review under section 304.

20 “(3) JUDICIAL REVIEW.—Notwithstanding sec-  
21 tion 307, no action of the Administrator listing a  
22 source category under subsection (a) shall be a final  
23 agency action subject to judicial review, except that  
24 any such action may be reviewed under section 307

1 when the Administrator issues emission standards  
2 for such category.

3 “(c) COVERED ENTITIES.—No standard of perform-  
4 ance shall be established under section 111 for the emis-  
5 sion of any greenhouse gas from a covered entity under  
6 title VII if that emission is subject to a limitation under  
7 title VII. In promulgating a standard of performance  
8 under section 111 for the emission from any stationary  
9 source of any air pollutant that is not a greenhouse gas,  
10 the Administrator shall treat the emission of any green-  
11 house gas by that source as a nonair quality public health  
12 and environmental impact within the meaning of section  
13 111(a)(1).

14 **“SEC. 812. CARBON CAPTURE STANDARDS FOR NEW COAL-**  
15 **FIRED POWER PLANTS.**

16 “(a) COVERED EGUS.—For purposes of this section,  
17 the term ‘covered EGU’ means an electric generating unit  
18 that—

19 “(1) has a rated capacity of 25 megawatts or  
20 more;

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

24 “(3) commences construction of a new unit (not  
25 a modification of an existing unit) pursuant to a

1 new source review permit issued on or after January  
2 1, 2009, pursuant to applicable implementation plan  
3 provisions under section 165 or 172(c)(5).

4 “(b) CARBON CAPTURE STANDARDS.—

5 “(1) OBLIGATIONS OF COVERED EGUS.—Each  
6 covered EGU shall achieve, on the compliance sched-  
7 ule set forth in paragraph (2), the capture and geo-  
8 logical sequestration of not less than 60 percent of  
9 the total carbon dioxide emissions produced by the  
10 covered EGU on an annual average basis.

11 “(2) COMPLIANCE SCHEDULE.— (A) Each cov-  
12 ered EGUs that commences operation prior to Janu-  
13 ary 1, 2025, shall be in compliance with the stand-  
14 ard under this section by the later of January 1,  
15 2025, or the date 4 years after the covered EGU  
16 commences operation. A covered EGU may obtain a  
17 compliance date extension of up to 18 months if the  
18 owner or operator can demonstrate to the Adminis-  
19 trator’s satisfaction that it is unable to meet the  
20 standard because of technical infeasibility.

21 “(B) Any other covered EGU shall be in com-  
22 pliance with the standard on the date when it com-  
23 mences operation.

24 “(c) REGULATIONS.—Not later than 1 year after the  
25 date of enactment of this title, the Administrator shall

1 promulgate regulations implementing the requirements of  
2 this section.

3 **“SEC. 813. CRITERIA POLLUTANTS.**

4 “No greenhouse gas may be listed under section  
5 108(a) on the basis of its effect on climate change.

6 **“SEC. 814. HAZARDOUS AIR POLLUTANTS.**

7 “No greenhouse gas may be added to the list of haz-  
8 arduous air pollutants under section 112 unless such green-  
9 house gas meets the listing criteria of section 112(b) inde-  
10 pendent of its effects on climate change.

11 **“SEC. 815. NEW SOURCE REVIEW AND TITLE V PERMITS.**

12 “(a) GREENHOUSE GASES.—The provisions of part  
13 C of title I shall not apply to greenhouse gases.

14 “(b) TITLE V PERMITS.—Notwithstanding the provi-  
15 sions of title V of this Act or this section, no stationary  
16 source shall be required to apply for, or operate pursuant  
17 to, a permit issued under such title solely because such  
18 source is subject to regulations or requirements under this  
19 title.

20 **“SEC. 816. MOTOR VEHICLE EMISSION STANDARDS.**

【Note: Following are 3 options regarding Federal  
standards governing greenhouse gas emissions, spanning  
a range of potential options】

21 “(a) [OPTION A] FEDERAL STANDARDS FOR GREEN-  
22 HOUSE GAS EMISSIONS FROM MOTOR VEHICLES.—

1           “(1) ENDANGERMENT FINDING.—For purposes  
2 of section 202, the Administrator shall be treated as  
3 having made a determination that greenhouse gases  
4 cause, or contribute to, air pollution which may rea-  
5 sonably be anticipated to endanger public health or  
6 welfare.

7           “(2) COST.—In taking cost into account in  
8 rulemaking proceedings establishing any greenhouse  
9 gas emission standard under section 202, the Ad-  
10 ministrator shall consider whether such a standard  
11 will affect the overall amount or cost of greenhouse  
12 gas emission reductions in light of the program es-  
13 tablished under title VII of this Act, and shall take  
14 into account any changes likely to occur as a result  
15 of the provisions of such title VII.

16           “(a) [OPTION B] FEDERAL STANDARDS FOR GREEN-  
17 HOUSE GAS EMISSIONS FROM MOTOR VEHICLES.—Any  
18 standards established by the Administrator under section  
19 202 of this Act applicable to the emission of greenhouse  
20 gases from any class or classes of new motor vehicles or  
21 new motor vehicle engines for which corporate average fuel  
22 efficiency standards have been established under chapter  
23 329 of title 49 of the United States Code shall be fully  
24 consistent with such corporate average fuel efficiency  
25 standards.



1           “(a) [OPTION C] FEDERAL STANDARDS FOR GREEN-  
2 HOUSE GAS EMISSIONS FROM MOTOR VEHICLES.—For  
3 any new motor vehicles or motor vehicle engines for which  
4 corporate average fuel efficiency standards have been es-  
5 tablished under chapter 329 of title 49 of the United  
6 States Code, the Administrator shall not set tailpipe  
7 greenhouse gas emission standards under title II of this  
8 Act.

    【Note: Following are 2 options regarding State  
standards governing greenhouse gas emissions, spanning  
a range of potential options】

9           “(b) [OPTION A] GRANT OF WAIVER FOR STATE  
10 STANDARDS FOR MOTOR VEHICLES.—Notwithstanding  
11 section 209(b) of this Act or any other provision of law,  
12 the application for a waiver of preemption dated December  
13 21, 2005, submitted to the Administrator pursuant to sec-  
14 tion 209(b) by the State of California for regulations of  
15 that State to control greenhouse gas emissions from motor  
16 vehicles shall be considered to be approved.

17           “(b) [OPTION B] PREEMPTION OF STATE STAND-  
18 ARDS FOR MOTOR VEHICLES.—Notwithstanding sections  
19 177 and 209(b) of this Act, or any other provision of law,  
20 no State or any political subdivision thereof shall adopt  
21 or attempt to enforce any standard relating to the control  
22 of greenhouse gas emissions from new motor vehicles or

1 new motor vehicle engines for which greenhouse gas stand-  
2 ards have been established under title II of this Act or  
3 for which corporate average fuel efficiency standards have  
4 been established under chapter 329 of title 49 of the  
5 United States Code. No State shall require certification,  
6 inspection, or any other approval relating to the control  
7 of greenhouse gas emissions from any new motor vehicle  
8 or new motor vehicle engine as condition precedent to the  
9 initial retail sale, titling (if any), or registration of such  
10 motor vehicle, motor vehicle engine or equipment.

11 “(c) NONROAD ENGINES AND VEHICLES.—

12 “(1) ENDANGERMENT DETERMINATION.—For  
13 purposes of section 213, the Administrator shall be  
14 treated as having made a determination under para-  
15 graph (4) of subsection (a) of that section that  
16 greenhouse gases significantly contribute to air pol-  
17 lution which may reasonably be anticipated to en-  
18 danger public health or welfare.

19 “(2) COST.—In taking cost into account in  
20 rulemaking proceedings establishing any greenhouse  
21 gas emission standard under section 213(a)(4) or  
22 (5), the Administrator shall determine whether such  
23 a standard will affect the overall amount or cost of  
24 greenhouse gas emission reductions in light of the  
25 program established under title VII of this Act, and

1 take into account any changes likely to occur as a  
2 result of the provisions of title VII of this Act.

3 “(3) ELECTRIC ENGINES.—In promulgating  
4 regulations for greenhouse gas emissions from new  
5 nonroad engines and new nonroad vehicles referred  
6 to in paragraphs (4) and (5) of section 213(a) of  
7 this Act, the Administrator may establish standards  
8 for electric engines and electric vehicles which are in  
9 the same category, and have essentially the same  
10 uses, as other nonroad engines and vehicles for  
11 which standards are issued under section 213 gov-  
12 erning greenhouse gas emissions, notwithstanding  
13 the term ‘internal combustion’ in section 216(10).

14 **“SEC. 817. FUEL STANDARDS.**

15 “The Administrator is authorized to establish stand-  
16 ards under section 211 limiting lifecycle greenhouse gas  
17 emissions from transportation fuels. Such standards may  
18 apply to fuel sold or distributed in interstate commerce  
19 at any time after the enactment of this title. Not later  
20 than December 15, 2019, the Administrator shall estab-  
21 lish lifecycle greenhouse gas standards for transportation  
22 fuel sold or distributed in interstate commerce after Janu-  
23 ary 1, 2022.

1 **“SEC. 818. AIRCRAFT EMISSION STANDARDS.**

2 “For purposes of paragraph (2)(A) of section 231(a),  
3 the Administrator shall be treated as having made a deter-  
4 mination under that paragraph that greenhouse gases  
5 emitted from new aircraft engines cause, or contribute to,  
6 air pollution which may reasonably be anticipated to en-  
7 danger public health or welfare.

8 **“PART B—MISCELLANEOUS**

9 **“SEC. 831. CLIMATE CHANGE REVIEW AND RECOMMENDA-**  
10 **TIONS.**

11 “(a) NATIONAL ACADEMY OF SCIENCES REVIEW.—

12 “(1) IN GENERAL.—Not later than 1 year after  
13 the date of enactment of this title, the Administrator  
14 shall offer to enter into an arrangement with the  
15 National Academy of Sciences under which the  
16 Academy shall, not later than December 15, 2018,  
17 and every 8 years thereafter, submit to Congress  
18 and the Administrator a report that includes—

19 “(A) a review of the latest scientific infor-  
20 mation and data relevant to global climate  
21 change;

22 “(B) an analysis of the performance of this  
23 title and title VII of this Act, and other public  
24 policies, in mitigating greenhouse gas emissions;  
25 and

1           “(C) an analysis of the performance of this  
2 title and title VII of this Act in reducing the  
3 risks from climate change impacts.

4           “(2) LATEST SCIENTIFIC INFORMATION.—The  
5 review required under paragraph (1)(A) shall—

6           “(A) address existing reports, including re-  
7 cent research and the most recent assessment  
8 report of the Intergovernmental Panel on Cli-  
9 mate Change;

10          “(B) include a description of trends in and  
11 projections for—

12           “(i) net United States greenhouse gas  
13 emissions;

14           “(ii) net worldwide greenhouse gas  
15 emissions;

16           “(iii) net greenhouse gas emissions in  
17 each country that is a major trading part-  
18 ner of the United States;

19           “(iv) atmospheric concentrations of  
20 greenhouse gases;

21           “(v) global, continental, and regional  
22 climate change indicators, including tem-  
23 perature, precipitation, and sea level rise;

1           “(vi) impacts of global climate change  
2           on human populations, wildlife, natural re-  
3           sources, and terrestrial ecosystems; and

4           “(vii) impacts of global climate change  
5           on health of the oceans and ocean eco-  
6           systems, including changes in ocean acid-  
7           ity, temperatures, the extent of coral reefs,  
8           and other indicators of ocean ecosystem  
9           health; and

10          “(C) include an assessment of the occur-  
11          rence or likely occurrence of—

12           “(i) atmospheric greenhouse gas con-  
13           centrations of greater than 450 carbon di-  
14           oxide-equivalent ppm;

15           “(ii) global average temperature in-  
16           crease of greater than 3.6 degrees Fahr-  
17           enheit (2 degrees Celsius) above the  
18           preindustrial average;

19           “(iii) substantial slowing of the Atlan-  
20           tic thermohaline circulation;

21           “(iv) sea level rise of more than 8  
22           inches; and

23           “(v) ice-free Arctic Ocean in the sum-  
24           mer.

1           “(3) PERFORMANCE OF THIS ACT AND OTHER  
2 POLICIES.—The analysis required under paragraph  
3 (1)(B) shall include an assessment of—

4                   “(A) the extent to which this title and title  
5 VII of this Act, in concert with other public  
6 policies, has mitigated greenhouse gas emissions  
7 in the United States, including an evaluation of  
8 the uncertainties associated with such esti-  
9 mates;

10                   “(B) the costs associated with greenhouse  
11 gas emission mitigation, including an evaluation  
12 of the uncertainties associated with those costs;

13                   “(C) the current and future projected de-  
14 ployment of technologies and practices in the  
15 United States that reduce or limit greenhouse  
16 gas emissions, including—

17                           “(i) technologies for capture and geo-  
18 logic sequestration of greenhouse gases;

19                           “(ii) efficiency improvement tech-  
20 nologies;

21                           “(iii) low- and zero-greenhouse gas  
22 emitting energy technologies, including  
23 wind, solar, geothermal, hydrokinetic, and  
24 nuclear technologies;

1                   “(iv) low-carbon renewable fuels and  
2                   bioenergy;

3                   “(v) above-ground and below-ground  
4                   biological sequestration technologies; and

5                   “(vi) any uncertainties associated with  
6                   future deployment estimates;

7                   “(D) the extent to which this title and title  
8                   VII of this Act, and other public policies, are  
9                   affecting the development and commercial de-  
10                  ployment of technologies and practices that re-  
11                  duce and limit greenhouse gas emissions;

12                  “(E) the extent to which this title and title  
13                  VII of this Act, and other public policies, are  
14                  affecting greenhouse gas emissions and biologi-  
15                  cal sequestration from agriculture and forestry  
16                  in the United States and internationally; and

17                  “(F) the extent to which domestic and  
18                  international offset credits represent real,  
19                  verifiable, additional, permanent, and enforce-  
20                  able reductions in or avoidance of greenhouse  
21                  gas emissions or increases in sequestration.

22                  “(4) PERFORMANCE OF THIS ACT AND OTHER  
23                  POLICIES.—The analysis required under paragraph  
24                  (1)(C) shall include an assessment of the extent to  
25                  which this title and title VII of this Act, in concert



1 with other public policies, and considering alter-  
2 native assumptions about future socioeconomic de-  
3 velopment, will reduce the risks posed by climate  
4 change. Such analysis shall, at a minimum—

5 “(A) assess the risk, including both quali-  
6 tative and quantitative measures, of observed  
7 and projected damages of climate change, ac-  
8 counting for—

9 “(i) both monetized and nonmonetized  
10 losses, in either quantitative or qualitative  
11 form where appropriate;

12 “(ii) potential nonlinear, abrupt, or ir-  
13 reversible changes in the climate system;

14 “(iii) potential nonlinear increase in  
15 the costs of impacts;

16 “(iv) potential low-probability, high-  
17 impact events; and

18 “(v) whether damages are transitory  
19 or permanent; and

20 “(B) estimate the positive impacts of cli-  
21 mate change, accounting for—

22 “(i) the magnitude of monetized and  
23 nonmonetized benefits, in either quan-  
24 titative or qualitative form where appro-  
25 priate; and

1                   “(ii) whether benefits are transitory  
2                   or permanent.

3           “(b) RECOMMENDATIONS.—

4                   “(1) INTERAGENCY CLIMATE CHANGE TASK  
5           FORCE.—Not later than January 31, 2018, the  
6           President shall establish an Interagency Climate  
7           Change Task Force (in this subsection referred to as  
8           the ‘Task Force’).

9                   “(2) COMPOSITION.—The members of the Task  
10          Force shall be—

11                   “(A) the Administrator;

12                   “(B) the Secretary of Energy;

13                   “(C) the Secretary of Agriculture;

14                   “(D) the Secretary of State;

15                   “(E) the Secretary of Commerce; and

16                   “(F) such other Cabinet Secretaries as the  
17          President may name to the membership of the  
18          Task Force.

19                   “(3) CHAIRMAN.—The Administrator shall  
20          serve as Chairman of the Task Force.

21                   “(4) REPORT TO THE CONGRESS.—

22                   “(A) IN GENERAL.—Not later than July  
23          31, 2019, and every 8 years thereafter, the  
24          Task Force shall submit to the Congress a re-  
25          port making recommendations, including spe-

1           cific legislative recommendations, in response to  
2           the most recent report submitted by the Na-  
3           tional Academy of Sciences under subsection  
4           (a).

5           “(B) INCLUSIONS.—The Task Force shall  
6           include with each report submitted under sub-  
7           paragraph (A)—

8                   “(i) recommendations regarding dis-  
9                   tribution of funds to carry out activities  
10                  authorized by this title and title VII of this  
11                  Act, in order to accelerate reductions in or  
12                  avoidance of greenhouse gas emissions,  
13                  lower the cost of achieving such reductions  
14                  or avoidance, or preserve United States  
15                  economic growth, through research, devel-  
16                  opment, demonstration, and deployment of  
17                  technologies;

18                  “(ii) recommendations regarding im-  
19                  provements to programs implemented pur-  
20                  suant to this title and title VII of this Act  
21                  related to the agriculture and forestry sec-  
22                  tors in order to accelerate reductions in or  
23                  avoidance of greenhouse gas emissions  
24                  from agriculture and increases in biological

1 sequestration from agriculture and for-  
2 estry;

3 “(iii) recommendations as to how to  
4 amend this title or title VII, or other Fed-  
5 eral policies, in order to avoid dangerous  
6 atmospheric concentrations of greenhouse  
7 gases or a dangerous increase in global av-  
8 erage temperature, and to improve the im-  
9 plementation of this title or title VIII,  
10 while preserving United States economic  
11 growth, including consideration of the fea-  
12 sibility and effectiveness of—

13 “(I) modifying the definition of  
14 the term covered entity under title  
15 VII;

16 “(II) modifying the scope of com-  
17 pliance obligations established under  
18 section 712 or this title;

19 “(III) modifying the number of  
20 emission allowances issued for 1 or  
21 more calendar years under section  
22 711;

23 “(IV) establishing or withdrawing  
24 policies for reducing greenhouse gas

1 emissions over and above the policies  
2 established by title VII;

3 “(V) modifying the percentage of  
4 covered entities’ compliance obligation  
5 that can be satisfied with offset cred-  
6 its or international offset credits; and

7 “(VI) other approaches, as deter-  
8 mined by the Task Force; and

9 “(iv) if the National Academy of  
10 Sciences concludes that any of the events  
11 specified in subsection (a)(3)(C) has oc-  
12 curred or is likely to occur, recommenda-  
13 tions for appropriate policy responses,  
14 along with an explanation of the rationale  
15 behind each such policy response in light of  
16 the findings of the National Academy of  
17 Sciences.

18 **“SEC. 832. CERTIFYING GEOLOGIC SEQUESTRATION SITES.**

19 “Not later than 2 years after the date of enactment  
20 of this title, the Administrator shall prescribe regulations  
21 that establish a certification program for geologic seques-  
22 tration sites. In developing these regulations, the Adminis-  
23 trator shall take into account, and shall reduce redun-  
24 dancy with, the requirements of section 1421(d) of the  
25 Safe Drinking Water Act (42 U.S.C. 300h(d)). The regu-

1 lations shall include monitoring and reporting require-  
2 ments and such other elements as determined by the Ad-  
3 ministrator.”.

4 **TITLE IV—**  
5 **HYDROFLUOROCARBONS**

6 **SEC. 401. HFC REGULATION.**

7 (a) IN GENERAL.—Title VI of the Clean Air Act (42  
8 U.S.C. 7671 and following) (relating to stratospheric  
9 ozone protection) is amended by adding the following new  
10 section at the end thereof:

11 **“SEC. 619. HYDROFLUOROCARBONS (HFCs).**

12 “(a) TREATMENT AS CLASS II, GROUP II SUB-  
13 STANCES.—Except as otherwise provided in this section,  
14 hydrofluorocarbons shall be treated as class II substances  
15 for purposes of applying the provisions of this title. The  
16 Administrator shall establish two groups of class II sub-  
17 stances. Class II, group I, substances shall include all  
18 hydrochlorofluorocarbons (HCFCs) listed pursuant to sec-  
19 tion 602(b). Class II, group II substances shall include  
20 each of the following:

21 “(1) Hydrofluorocarbon-23 (HFC-23).

22 “(2) Hydrofluorocarbon-32 (HFC-32).

23 “(3) Hydrofluorocarbon-41 (HFC-41).

24 “(4) Hydrofluorocarbon-125 (HFC-125).

25 “(5) Hydrofluorocarbon-134 (HFC-134).

- 1           “(6) Hydrofluorocarbon-134a (HFC-134a).
- 2           “(7) Hydrofluorocarbon-143 (HFC-143).
- 3           “(8) Hydrofluorocarbon-143a (HFC-143a).
- 4           “(9) Hydrofluorocarbon-152 (HFC-152).
- 5           “(10) Hydrofluorocarbon-152a (HFC-152a).
- 6           “(11) Hydrofluorocarbon-227ea (HFC-227ea).
- 7           “(12) Hydrofluorocarbon-236cb (HFC-236cb).
- 8           “(13) Hydrofluorocarbon-236ea (HFC-236ea).
- 9           “(14) Hydrofluorocarbon-236fa (HFC-236fa).
- 10          “(15) Hydrofluorocarbon-245ca (HFC-245ca).
- 11          “(16) Hydrofluorocarbon-245fa (HFC-245fa).
- 12          “(17)     Hydrofluorocarbon-365mfc     (HFC-
- 13          365mfc).
- 14          “(18)     Hydrofluorocarbon-43-10mee   (HFC-43-
- 15          10mee).
- 16 Not later than 6 months after the date of enactment of
- 17 this title, the Administrator shall publish an initial list of
- 18 class II, group II substances, which shall include the sub-
- 19 stances listed in this subsection. The Administrator may
- 20 add to the list of class II, group II substances any other
- 21 greenhouse gas listed by the Administrator pursuant to
- 22 section 701 if that substance is used as a substitute for
- 23 a class I or II chemical. Within 24 months after the date
- 24 of enactment of this section, the Administrator shall
- 25 amend the regulations under this title (including the regu-

1 lations referred to in section 603, 608, 609, 610, 611,  
2 612, and 613) to apply to class II, group II substances.

3 “(b) BASELINE YEAR.—Notwithstanding section  
4 601(2), for purposes of this section, the term ‘baseline  
5 year’ means the annual average of calendar years 2004,  
6 2005, and 2006.

7 “(c) DEADLINES FOR COMPLIANCE.—The January  
8 2015 deadline specified in section 611(c) and 611(e) shall  
9 be January 1, 2012, in the case of class II, group II, sub-  
10 stances. Notwithstanding the deadlines specified for class  
11 II substances in sections 608, 609, 610, 612, and 613 that  
12 occur prior to January 1, 2009, the deadline for promul-  
13 gating regulations under those sections for class II, group  
14 II, substances shall be January 1, 2012.

15 “(d) PRODUCTION AND CONSUMPTION OF CLASS II,  
16 GROUP II SUBSTANCES.—

17 “(1) In the case of class II, group II sub-  
18 stances, in lieu of applying section 605 and the reg-  
19 ulations thereunder, the Administrator shall promul-  
20 gate regulations phasing down the production of  
21 class II, group II substances in accordance with this  
22 subsection. The Administrator shall also promulgate  
23 regulations to ensure that the consumption of class  
24 II, group II substances in the United States is  
25 phased down in accordance with the same schedule



1 (subject to the same exceptions and other provisions)  
2 as is applicable to the phase-down of production of  
3 class II, group II substances under this title. Effective  
4 on January 1 of each year specified in the table  
5 in this subsection, it shall be unlawful for any person  
6 to produce or import class II, group II substances  
7 in an annual quantity greater than the relevant  
8 percentage specified in the table. The percentages  
9 in the following table refer to a maximum allowable  
10 production of class II, group II substances  
11 weighted by global warming potential, in the given  
12 year and all subsequent years as a percentage of the  
13 quantity of class II substances, also weighted by  
14 global warming potential, produced by the person  
15 concerned in the baseline year:

<b>“Date</b>	<b>Percent of baseline</b>
2012	[69-93] percent
2020	[52-70] percent
2025	[37-50] percent
2030	[22-30] percent
2035	[18-25] percent
2040	[15-20] percent

**【Note: The bracketed percentages in the preceding table indicate the range of potential options】**

1           “(2) For purposes of determining a manufac-  
2           turer’s production, ‘production’ shall include the  
3           global warming potential-weighted quantity of class  
4           II, group II substance acquired in the United States  
5           from another producer of class II, group II sub-  
6           stances through sale or other transaction, and ex-  
7           clude the global warming potential-weighted quantity  
8           of class II, group II substance exported or trans-  
9           ferred to another class II, group II substance pro-  
10          ducer in the United States through sale or other  
11          transaction.

12          “(e) EXCEPTIONS FOR ESSENTIAL USES.—

13           “(1) ESSENTIAL METERED DOSE INHALERS.—  
14          Notwithstanding the phase down of production re-  
15          quired by subsection (d), the Administrator, after  
16          notice and opportunity for public comment, and in  
17          consultation with the Commissioner of the Food and  
18          Drug Administration, may provide an exception for  
19          the production and consumption of class II, group II  
20          substances solely for use in essential metered dose  
21          inhalers.

22           “(2) AVIATION SAFETY.—Notwithstanding the  
23          phase down of production required by subsection (d),  
24          the Administrator, after notice and opportunity for  
25          public comment, may authorize the production of

1       limited quantities of class II, group II substances  
2       solely for the purposes of aviation safety if the Ad-  
3       ministrators of the Federal Aviation Administration,  
4       in consultation with the Administrator, determines  
5       that no safe and effective substitute has been devel-  
6       oped and that such authorization is necessary for  
7       aviation safety purposes.

8       “(f) DEVELOPING COUNTRIES.—Notwithstanding  
9       the phase down of production required by subsection (d),  
10      the Administrator, after notice and opportunity for public  
11      comment, may authorize the production of limited quan-  
12      tities of class II, group II substances in excess of the  
13      amounts otherwise allowable under subsection (d) solely  
14      for export to, and use in, developing countries. Any pro-  
15      duction authorized under this subsection shall be solely for  
16      purposes of satisfying the basic domestic needs of such  
17      countries as provided in applicable international agree-  
18      ments, if any.

19      “(g) NATIONAL SECURITY; FIRE SUPPRESSION,  
20      ETC.—The provisions of subsection (f) and paragraphs  
21      (1) and (2) of subsection (g) of section 604 shall apply  
22      to class II, group II substances in the same manner and  
23      to the same extent as such provisions apply to the sub-  
24      stances specified in such subsection without regard to the  
25      Montreal Protocol.

1           “(h) ACCELERATED SCHEDULE.—In lieu of section  
2 606, the provisions of paragraphs (1) and (2) of this sub-  
3 section shall apply in the case of class II, group II sub-  
4 stances.

5           “(1) IN GENERAL.—The Administrator shall  
6 promulgate regulations, after notice and opportunity  
7 for public comment, which establish a schedule for  
8 phasing down the production and consumption of  
9 class II, group II substances that is more stringent  
10 than the schedule set forth in subsection (d) if,  
11 based on the availability of substitutes, the Adminis-  
12 trator determines that such more stringent schedule  
13 is practicable, taking into account technological  
14 achievability, safety, and other relevant factors, or if  
15 the Montreal Protocol, or any applicable inter-  
16 national agreement to which the United States is a  
17 party or otherwise adheres, is modified or estab-  
18 lished to include a schedule or other requirements to  
19 control or reduce production, consumption, or use of  
20 any class II, group II substance more rapidly than  
21 the applicable schedule under this section.

22           “(2) PETITION.—Any person may submit a pe-  
23 tition to promulgate regulations under this sub-  
24 section in the same manner and subject to the same  
25 procedures as are provided in section 606(b).

1           “(i) EXCHANGE.—Section 607(b) (relating to inter-  
2 pollutant transfers) shall apply in the case of exchanges  
3 of class II, group II substances production or consumption  
4 allowances on a global warming potential weighted basis.  
5 In accordance with section 607(b)(3), no exchanges or  
6 transfers may take place between class II, group II sub-  
7 stances and class II, group I substances.

8           “(j) LABELING.—In applying section 611 to products  
9 containing or manufactured with class II, group II sub-  
10 stances, in lieu of the words ‘destroying ozone in the upper  
11 atmosphere’ on labels required under section 611 there  
12 shall be substituted the words ‘contributing to global  
13 warming’.

14           “(k) NONESSENTIAL PRODUCTS.—For the purposes  
15 of section 610, class II, group II substances shall be regu-  
16 lated under section 610(b), except that in applying section  
17 610(b) ‘hydrofluorocarbon’ shall be substituted for the  
18 word ‘chlorofluorocarbon’ and ‘class II, group II,’ shall be  
19 substituted for the expression ‘class I.’ Class II, group II  
20 substances shall not be subject to the provisions of section  
21 610(d).

22           “(l) GLOBAL WARMING POTENTIAL.—In lieu of sec-  
23 tion 602(e), the provisions of this subsection shall apply  
24 in the case of class II, group II substances. Simulta-  
25 neously with establishing the list of class II, group II sub-

1 stances, and simultaneously with any addition to that list,  
2 the Administrator shall publish the global warming poten-  
3 tial of each listed class II, group II substance.”.

4 (b) TABLE OF CONTENTS.—The table of contents for  
5 such title VI is amended by adding the following new item  
6 at the end thereof:

“Sec. 619. Hydrofluorocarbons (HFCs).”.

7 **SEC. 402. EXCISE TAX ON HYDROFLUOROCARBONS.**

8 (a) IN GENERAL.—Chapter 38 of the Internal Rev-  
9 enue Code of 1986 (relating to environmental taxes) is  
10 amended by adding at the end the following:

11 **“Subchapter E—Tax on Hydrofluorocarbons**

“Sec. 4691. Imposition of tax.

“Sec. 4692. Definitions and special rules.

12 **“SEC. 4691. IMPOSITION OF TAX.**

13 “(a) GENERAL RULE.—There is hereby imposed a  
14 tax on—

15 “(1) any class II, group 2 substance sold or  
16 used by the manufacturer, producer, or importer  
17 thereof, and

18 “(2) any imported taxable product sold or used  
19 by the importer thereof.

20 “(b) AMOUNT OF TAX.—

21 “(1) CLASS II, GROUP 2 SUBSTANCE.—

22 “(A) IN GENERAL.—The amount of the  
23 tax imposed by subsection (a) on each pound of

1 class II, group 2 substance shall be an amount  
2 equal to—

3 “(i) the base tax amount, multiplied  
4 by

5 “(ii) the relative global warming fac-  
6 tor for such class II, group 2 substance.

7 “(B) BASE TAX AMOUNT.—The base tax  
8 amount for purposes of subparagraph (A) with  
9 respect to any sale or use during any calendar  
10 year after 2008 shall be **【\$8.00】** increased by  
11 **【67 cents】** for each year after 2008.

12 “(2) IMPORTED TAXABLE PRODUCT.—

13 “(A) IN GENERAL.—The amount of the  
14 tax imposed by subsection (a) on any imported  
15 taxable product shall be the amount of tax  
16 which would have been imposed by subsection  
17 (a) on the class II, group 2 substance used as  
18 materials in the manufacture or production of  
19 such product if such substance had been sold in  
20 the United States on the date of the sale of  
21 such imported taxable product.

22 “(B) CERTAIN RULES TO APPLY.—Rules  
23 similar to the rules of paragraphs (2) and (3)  
24 of section 4671(b) shall apply.

1 **“SEC. 4692. DEFINITIONS AND SPECIAL RULES.**

2 “(a) CLASS II, GROUP 2 SUBSTANCE.—For purposes  
3 of this subchapter, the term ‘class II, group 2 substance’  
4 means any substance which is listed in, or pursuant to,  
5 section 619 of the Clean Air Act as a class II, group 2  
6 substance and which—

7 “(1) at the time of the sale or use by the manu-  
8 facturer, producer, or importer, is listed as a class  
9 II, group 2 substance under or pursuant to such sec-  
10 tion, and

11 “(2) is manufactured or produced in the United  
12 States or entered into the United States for con-  
13 sumption, use, or warehousing.

14 “(b) RELATIVE GLOBAL-WARMING FACTOR.—For  
15 purposes of this subchapter, the term ‘relative global-  
16 warming factor’ means, with respect to a class II, group  
17 2 substance, the factor assigned to such substance by the  
18 Administrator of the Environmental Protection Agency.”.

19 (b) CONFORMING AMENDMENT.—The table of sub-  
20 chapters for chapter 38 of such Code is amended by add-  
21 ing at the end the following new item:

“SUBCHAPTER E. TAX ON HYDROFLUOROCARBONS.”.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to sales and use after December  
24 31, 2008.



1 **TITLE V—ENERGY EFFICIENCY**  
2 **Subtitle A—General Energy**  
3 **Efficiency Programs**

4 **SEC. 501. STATE ENERGY EFFICIENCY DEVELOPMENT**  
5 **(SEED) FUNDS.**

6 (a) **ESTABLISHMENT OF PROGRAM.**—The Adminis-  
7 trator shall establish a program under which a State may  
8 create a State Energy Efficiency Development (SEED)  
9 Fund.

10 (b) **PURPOSE.**—The purpose of the SEED Funds  
11 is—

12 (1) to offer low-interest or zero-interest loans,  
13 or to provide a subsidy to reduce the interest rate  
14 on loans offered by commercial entities, for in-  
15 creased energy efficiency in new or existing build-  
16 ings, vehicles, systems, or industrial processes, as  
17 provided in this section; and

18 (2) to carry out other activities as provided in  
19 this Act.

20 (c) **ALLOWANCE DISTRIBUTION.**—

21 (1) **IN GENERAL.**—Emission allowances allo-  
22 cated to the SEED programs under sections  
23 721(a)(3) and 723 of the Clean Air Act shall be dis-  
24 tributed to the States in accordance with a formula

1 based on each State's respective share of the product  
2 of the following factors:

3 (A) Population in the most recent national  
4 census.

5 (B) Per capita consumption of fossil fuels  
6 in that State as of 1990, including the esti-  
7 mated fossil fuel required to generate the elec-  
8 tricity consumed in that State, as determined  
9 by the Energy Information Administration.

10 (2) ADMINISTRATIVE COSTS.—The value of up  
11 to 4 percent of emission allowances received by a  
12 State may be retained by the State to offset the ad-  
13 ministrative costs of the State's SEED program.

14 (d) GUIDANCE.—The Administrator shall develop  
15 model regulations for the operation of a SEED Fund by  
16 a State under this section. The Administrator and the Sec-  
17 retary of Energy shall provide consultation and assistance  
18 to States for the establishment of a SEED Fund under  
19 this section.

20 (e) APPLICATIONS.—A person seeking assistance  
21 under a SEED Fund program operated by a State under  
22 this section shall submit to the State an application indi-  
23 cating—

24 (1) the proposed energy efficiency improve-  
25 ments;

1           (2) the cost of the proposed improvements;

2           (3) estimated energy savings from the proposed  
3 improvements, on a net present value basis, com-  
4 pared to average annual energy consumption, based  
5 on prior years data, or in the case of new buildings,  
6 vehicles, systems, or processes, the net present value  
7 of reduced projected annual energy consumption  
8 compared to consumption by existing buildings, vehi-  
9 cles, systems, or processes without such improve-  
10 ments;

11          (4) estimated average annual financial savings  
12 from the proposed improvements, assuming constant  
13 energy prices;

14          (5) estimated average annual financial savings  
15 from the proposed improvements, assuming a 25  
16 percent increase in average annual energy costs over  
17 the subsequent 8-year period;

18          (6) projected payback and loan repayment peri-  
19 ods, based on savings at both constant energy prices  
20 and at a 25 percent increase in average annual en-  
21 ergy costs over the subsequent 8-year period;

22          (7) the requested loan terms or interest rate  
23 subsidy;

24          (8) evidence of sufficient creditworthiness; and

1           (9) such other information as the State may re-  
2           quire to process and approve the application.

3           (f) LOANS.—

4           (1) PREFERENCE.—Preference for assistance  
5           from a SEED Fund shall be given to applications  
6           that demonstrate a payback period of 8 years or  
7           less, under the assumption that energy costs will in-  
8           crease over that period by 25 percent.

9           (2) INTEREST RATE.—Loans may be provided  
10          from a SEED Fund, and interest on commercial  
11          loans may be subsidized by a SEED Fund, at or to  
12          an interest rate as low as zero, at the discretion of  
13          the State SEED Fund administrating authority, to  
14          increase potential energy savings, to reflect the need  
15          of the borrower, and to optimize the use of the  
16          SEED Fund over time. Any interest actually  
17          charged may be retained by the State to cover ad-  
18          ministrative expenses of the SEED Fund.

19          (3) USE OF REPAYMENTS.—Repayments of the  
20          principal from a SEED Fund loan shall be returned  
21          to that SEED Fund to allow for further SEED  
22          Fund activities by the State.

23          (4) REPAYMENT.—At the discretion of the  
24          State, payments on a SEED Fund loan may be  
25          made through State tax payments, payments

1 through withholding on paychecks, utility bill pay-  
2 ments, or other administratively convenient means.

3 (5) PREPAYMENT OF MORTGAGE PORTION.—

4 Loan assistance provided from a SEED Fund under  
5 this section may be used to prepay or buy down the  
6 portion of a mortgage on new home or building cer-  
7 tified to represent incremental expenditures (beyond  
8 expenditures required to meet building codes) attrib-  
9 uted to additional energy efficiency investments.

10 (6) RENTAL PROPERTIES.—Assistance provided

11 from a SEED Fund under this section to an owner  
12 of a building or portion of a building that is rented  
13 to others for a period of more than one year shall  
14 be provided so as to ensure that no interest will be  
15 charged on the loan for a period equal to the longest  
16 ongoing rental term documented by the building  
17 owner, and for subsequent rental terms when docu-  
18 mented. Assistance may be provided from a SEED  
19 Fund under this section at zero interest to a tenant  
20 occupying all or a portion of a building, upon the  
21 agreement of the owner of the building to assume  
22 responsibility for repayment of the loan under the  
23 same terms, when the tenant's lease expires.

24 (7) ENERGY STAR DESIGNATION OR ENERGY

25 USE REDUCTION.—If any building with respect to

1       which assistance is provided from a SEED Fund  
2       under this section—

3               (A) becomes designated as an Energy Star  
4       building; or

5               (B) is demonstrated to have undergone a  
6       net reduction of 30 percent or more in energy  
7       use,

8       as a result of improvements made with such assist-  
9       ance, the assistance shall be restructured so that the  
10      loan becomes effectively a zero-interest loan.

11      (g) THIRD-PARTY RECIPIENTS OF ASSISTANCE.—  
12      SEED Fund loans and interest rate reductions may be  
13      made to third-party energy efficiency providers, such as  
14      utilities, contractors, builders, and energy service compa-  
15      nies, if the State finds that competitive alternatives or reg-  
16      ulatory practices will ensure that the benefits of such as-  
17      sistance to third parties will accrue to ultimate energy con-  
18      sumers and ratepayers.

19      (h) ASSISTANCE TO CERTAIN UTILITIES.—Assist-  
20      ance may be provided from a SEED Fund under this sec-  
21      tion to—

22              (1) an investor-owned utility for investments in  
23      the energy efficiency of its customers, if the utility  
24      is implementing the rate design standard under sec-  
25      tions 111(d)(17) and 303(b)(6) of the Public Utility

1 and Regulatory Policies Act of 1978, as added by  
2 section 532 of the Energy Independence and Secu-  
3 rity Act of 2007; or

4 (2) a municipal or cooperative utility.

5 (i) PENALTIES.—A State operating a SEED Fund  
6 under this section shall ensure that appropriate penalties  
7 are in effect for fraudulent use of SEED Fund assistance  
8 for purposes other than energy efficiency, as indicated in  
9 the application.

10 **SEC. 502. PUBLIC INFORMATION.**

11 (a) ENERGY STAR PUBLIC INFORMATION.—The Sec-  
12 retary of Energy and the Administrator shall each main-  
13 tain an Energy Star public communications office whose  
14 purpose shall be—

15 (1) to enhance public awareness of energy effi-  
16 ciency programs in general and the Energy Star pro-  
17 gram in particular; and

18 (2) to publicize the availability of energy effi-  
19 ciency loans from SEED Funds under section 501.

20 (b) ENERGY STAR STUDENT PROGRAM.—The Ad-  
21 ministrator shall establish a program to provide recogni-  
22 tion to students at all levels of education who demonstrate  
23 unusual levels of understanding or achieve significant ac-  
24 complishments relating to energy efficiency.

1 (c) PUBLIC SERVICE ADVERTISING AWARD PRO-  
2 GRAM.—The Administrator shall establish a program for  
3 making awards for the most creative and effective public  
4 service advertisements relating to energy efficiency devel-  
5 oped for print, audio, video, or web media use.

6 **Subtitle B—Building Energy**  
7 **Efficiency Programs**

8 **SEC. 511. ENERGY STAR PROGRAM FOR RESIDENTIAL**  
9 **BUILDING STANDARDS.**

10 (a) ENERGY STAR STANDARD.—The Administrator  
11 shall establish as the qualifying threshold for Energy Star  
12 designation of buildings an energy efficiency level at least  
13 25 percent greater than the target set by the Secretary  
14 of Energy pursuant to section 304(a) of the Energy Con-  
15 servation and Production Act (42 U.S.C. 6833(a)).

16 (b) REGIONAL VARIATIONS.—Energy Star standards  
17 for energy efficiency of buildings shall be based in part  
18 on regional climate conditions, determined separately in  
19 at least 8 climate zones.

20 (c) RECERTIFICATION.—A building that has been  
21 certified as an Energy Star building before the date of  
22 enactment of this Act shall continue to be qualified as an  
23 Energy Star building for a period of 5 years after the date  
24 of enactment of this Act, after which the qualifying stand-  
25 ards in effect at that time shall be applied to determine



1 whether the building may be recertified as an Energy Star  
2 building.

3 (d) LIGHTING AND APPLIANCES.—Not more than 50  
4 percent of the qualifying criteria for certification as an  
5 Energy Star building may be based on the efficiency of  
6 lighting and appliances, including heating and air condi-  
7 tioning equipment, permanently installed in a building.

8 **SEC. 512. ENERGY STAR BUILDING LABEL PROGRAM.**

9 (a) BUILDING TYPE DETERMINATION FOR ASSESS-  
10 MENT OF ENERGY PERFORMANCE.—

11 (1) Not later than 90 days after the date of en-  
12 actment of this Act, the Administrator shall provide  
13 to Congress, as well as to the Secretary of Energy  
14 and the Office of Management and Budget, a report  
15 identifying—

16 (A) all principal building types for which  
17 statistically significant energy performance data  
18 exists to serve as the basis of measurement pro-  
19 tocols and labeling requirements for building  
20 energy use; and

21 (B) those building types for which addi-  
22 tional data is required to enable the develop-  
23 ment of such protocols and requirements.

24 (2) For all principal building types identified  
25 under paragraph (1), the Administrator shall include

1 a statement of additional resources that will be re-  
2 quired to fully develop the relevant databases, as  
3 well as the anticipated timeline for data development  
4 and the inclusion of these additional building types  
5 in the labeling program. Additional reports shall be  
6 provided as often as considered practicable by the  
7 Administrator, but not less than every two years.

8 (b) IMPROVING BUILDING ENERGY CONSUMPTION  
9 DATABASES.—

10 (1) The Secretary of Energy, in consultation  
11 with the Energy Information Administration, shall  
12 support improvements to the Commercial Buildings  
13 Energy Consumption Survey (CBECS) as author-  
14 ized by section 205(k) of the Department of Energy  
15 Organization Act (42 U.S.C. 7135(k))—

16 (A) to enable complete and robust data for  
17 the actual energy performance of principal  
18 building types currently covered by survey; and

19 (B) to cover additional building types as  
20 identified by the Administrator, such that per-  
21 formance measurement protocols are developed  
22 for at least 90 percent of all major commercial  
23 building types within 5 years.

24 (2) The Administrator, in consultation with the  
25 Energy Information Administration and the Sec-

1       retary of Energy, shall support similar improve-  
2       ments to the Residential Energy Consumption Sur-  
3       vey (RECS) as authorized by section 205(k) of the  
4       Department of Energy Organization Act (42 U.S.C.  
5       7135(k)), or such other residential energy perform-  
6       ance databases as the Administrator considers ap-  
7       propriate, to enable the development of energy per-  
8       formance measurement protocols for residential  
9       building energy use for at least 90 percent of the  
10      residential market within 5 years.

11           (3) To the greatest extent practicable, the pro-  
12      grams under paragraphs (1) and (2) shall reflect  
13      and make use of existing programs, such as the En-  
14      vironmental Protection Agency's Energy Star pro-  
15      grams for commercial and residential buildings, the  
16      Department of Energy's related programs on build-  
17      ing technologies, and the programs of the Federal  
18      Energy Management Program (FEMP).

19           (4) The Secretary of Energy and the Adminis-  
20      trator shall consult with public, private, and non-  
21      profit sector representatives from across the building  
22      industry, to assist in the evaluation and improve-  
23      ment of building energy performance databases and  
24      labeling programs.

1           (c) ENERGY PERFORMANCE LABELING REQUIRE-  
2 MENTS.—

3           (1) Not later than 1 year after identifying a  
4 building type as having statistically significant data  
5 to support its inclusion in a labeling program, the  
6 Administrator shall propose a measurement protocol  
7 and labeling requirement for that building activity  
8 type.

9           (2) After providing for appropriate notice and  
10 comment, the Administrator shall publish a final  
11 rule containing a measurement protocol and labeling  
12 requirement for that building type. Such a rule—

13           (A) shall define the minimum period for  
14 measurement of energy use by buildings of that  
15 type and other details of the measurement and  
16 labeling program, with provision for leased  
17 buildings or parts thereof;

18           (B) shall prescribe data collection and  
19 record retention requirements;

20           (C) shall display the data described in  
21 paragraph (3) and other data as prescribed by  
22 the Administrator; and

23           (D) may prescribe transition rules and ex-  
24 emptions for classes of buildings within the  
25 building type.

1           (3) The data referred to in paragraph (2)(C) is  
2           the following:

3                   (A) The square footage and cubic footage  
4                   of the building and, if subdivided, of each  
5                   apartment, condominium, or other occupied  
6                   space.

7                   (B) The nature of the building's primary  
8                   energy systems and fuel or electricity usage.

9                   (C) Expected energy requirements of the  
10                  building during an average climate year, based  
11                  on prior consumption (if available), audit of en-  
12                  ergy efficiency features, or both.

13                  (D) For new buildings, a rating of the  
14                  building, on a scale of 1 to 100, with—

15                          (i) minimum applicable energy code  
16                          compliance for new construction defined as  
17                          1 on the scale;

18                          (ii) maximum practical energy effi-  
19                          ciency (based on cost-effective energy effi-  
20                          ciency investments assuming 25 percent in-  
21                          crease in then-current energy prices over  
22                          the subsequent 8-year period) defined as  
23                          100; and

1 (iii) an identification of the position  
2 on the scale where minimum Energy Star  
3 rating qualifications fall.

4 (E) For existing buildings, a rating of the  
5 building, on a scale of 1 to 100, with—

6 (i) prior actual energy performance  
7 defined as 1 on the scale;

8 (ii) optimum projected cost-effective  
9 energy usage defined as 100; and

10 (iii) an identification of the position  
11 on the scale where minimum Energy Star  
12 rating qualifications and the current min-  
13 imum new building energy efficiency code  
14 level fall.

15 (F) Expected annual energy expenditures  
16 based on current energy costs.

17 (d) IMPLEMENTATION OF BUILDING ENERGY PER-  
18 FORMANCE LABELING PROGRAM.—

19 (1) The Administrator, in consultation with the  
20 Secretary of Energy, shall seek to establish relation-  
21 ships with all State Energy Offices or other State  
22 authorities as necessary for the purpose of imple-  
23 menting the labeling program under this section in  
24 the States for commercial and residential buildings

1 of all types for which labels have been developed  
2 pursuant to this subsection.

3 (2) The Administrator shall, acting in consulta-  
4 tion and coordination with the respective States, en-  
5 courage use of the labeling program by counties and  
6 other localities that have responsibility for recording  
7 and supervising real estate transactions, providing  
8 for disclosure of building label contents in such tax,  
9 title, and other property records as such localities  
10 maintain.

11 (3) The Administrator shall distribute funds al-  
12 located to the program under this subsection to a  
13 State adopting by statute or regulation a require-  
14 ment that eligible buildings must be assessed and la-  
15 beled as part of any sale that is recorded for title  
16 and tax purposes, and adopting a plan to implement  
17 such program within 3 years after the date of enact-  
18 ment of this Act, to cover the costs of administration  
19 of such requirements. The distribution of such funds  
20 to States shall be based on the same formula as is  
21 used under section 501(c).

22 (4)(A) The Environmental Protection Agency  
23 shall conduct building energy performance labeling  
24 demonstration projects for different building types—

1 (i) to ensure the sufficiency of current  
2 Commercial Buildings Energy Consumption  
3 Survey and other data to serve as the basis for  
4 new measurement protocols for a building en-  
5 ergy performance labeling program; and

6 (ii) to inform the development of measure-  
7 ment protocols for building types referenced in  
8 subsection (a)(1) not currently covered by the  
9 Commercial Buildings Energy Consumption  
10 Survey.

11 (B) Participation in such demonstration  
12 projects shall include—

13 (i) buildings from diverse geographical and  
14 climate regions;

15 (ii) buildings in both urban and rural  
16 areas;

17 (iii) residential buildings, including at least  
18 one project that provides affordable housing to  
19 individuals of diverse incomes;

20 (iv) commercial buildings larger than  
21 5,000 square feet; and

22 (v) buildings from both the public and pri-  
23 vate sectors.

24 (C) Priority in the selection of demonstration  
25 projects shall be given to projects that facilitate



1 large-scale implementation of the labeling program  
2 for samples of buildings across neighborhoods, geo-  
3 graphic regions, cities, or States.

4 (D) The Administrator shall report any findings  
5 from demonstration projects under this paragraph,  
6 including areas of needed data improvement, to the  
7 Department of Energy's Energy Information Admin-  
8 istration and Building Technologies Program.

9 (E) The Secretary of Energy shall integrate the  
10 labeling program adopted pursuant to this section  
11 with the Zero-Net Energy Commercial Buildings Ini-  
12 tiative adopted under section 422 of the Energy  
13 Independence and Security Act of 2007.

14 (F) The Administrator, in consultation with the  
15 Secretary of Energy, shall provide a progress report  
16 to Congress by not later than 3 years after the date  
17 of enactment of this Act evaluating the effectiveness  
18 of efforts to advance use of the labeling program by  
19 States and localities, and recommending any further  
20 steps necessary to broaden its use. Following such  
21 period, the Administrator shall retain the authority  
22 to act upon those recommendations and take such  
23 other steps as necessary, including the advancement  
24 of additional requirements and incentives.

1 (e) IMPLEMENTATION OF LABELING IN PUBLIC  
2 BUILDINGS.—

3 (1) FEDERAL BUILDINGS.—The Administrator  
4 shall consult with all Federal agencies owning or op-  
5 erating buildings of such types for which labels will  
6 be prepared under this section, and shall encourage  
7 them to provide for labeling of such buildings.

8 (2) STATE, COUNTY, AND MUNICIPAL BUILD-  
9 INGS.—

10 (A) On or after a date 3 years after the  
11 date of enactment of this Act, labeling pursuant  
12 to this section shall be required as a condition  
13 of providing Federal financial assistance for the  
14 construction of any building to be owned by a  
15 State, county, or local government that is a  
16 building type covered by a labeling requirement.

17 (B) Information about the labeling pro-  
18 gram for Federal buildings, including its re-  
19 sults, best practices, accompanying analysis,  
20 and its implementation, should be provided to  
21 Governors and State and local governments by  
22 the Administrator for adaptation and adoption  
23 at their discretion as soon as practicable.

24 (f) PUBLIC OUTREACH.—The Secretary of Energy  
25 and the Administrator, in consultation with nonprofit and

1 industry stakeholders with specialized expertise, and in  
2 conjunction with other energy efficiency public awareness  
3 efforts, shall establish a business and consumer education  
4 program to increase awareness about the importance of  
5 building energy efficiency and to facilitate widespread use  
6 of the labeling program.

7 (g) DEFINITIONS.—In this section:

8 (1) The term “building energy performance”  
9 means source energy consumption per square foot  
10 (or other similar measure), as determined by the  
11 Secretary of Energy for a building type.

12 (2) The term “building energy performance  
13 benchmark” means a building energy performance  
14 measurement developed by the Administrator for a  
15 labeling program.

16 (3) The term “building type” refers to buildings  
17 as identified by their principal building activities, or  
18 as grouped by their use, including office buildings,  
19 laboratories, libraries, data centers, retail spaces, ho-  
20 tels, warehouses, and educational facilities.

21 (4) The term “labeling requirement” means a  
22 rule that specifies the form and content of the label  
23 or other disclosure of building energy performance  
24 for a building type, measured in accordance with the

1 applicable measurement protocol for actual energy  
2 consumption.

3 (5) The term “measurement protocol” means  
4 the methodology, prescribed by the Administrator,  
5 for defining a benchmark for building energy per-  
6 formance for a specific building type.

7 **SEC. 513. RESIDENTIAL ASSESSMENT PROGRAM.**

8 (a) ESTABLISHMENT.—The Administrator shall es-  
9 tablish a program under which State or local agencies per-  
10 form or procure energy audits at no cost to owners or oc-  
11 cupants of buildings.

12 (b) FEDERAL SHARE OF COSTS.—The Administrator  
13 shall provide up to 80 percent of the costs of a program  
14 established under subsection (a) if the State or local agen-  
15 cy agrees to—

- 16 (1) conduct or contract for the audits;  
17 (2) certify, train, and verify the performance of  
18 auditors; and  
19 (3) provide under State or local law for recorda-  
20 tion as described in subsection (e).

21 (c) AUDITS.—Audits conducted under a program es-  
22 tablished under subsection (a) shall—

- 23 (1) identify current energy consumption charac-  
24 teristics;

1           (2) identify opportunities for energy efficiency  
2           improvements, with estimated costs and payback pe-  
3           riods;

4           (3) estimate the percentage of reductions in en-  
5           ergy use feasible through the implementation of en-  
6           ergy efficiency improvements;

7           (4) inform the owner or occupant of the build-  
8           ing whether such opportunities would qualify for a  
9           SEED Fund loan under section 501; and

10          (5) inform the owner or occupant of the build-  
11          ing what degree of energy efficiency improvement  
12          would be required to qualify the building for an En-  
13          ergy Star rating.

14          (d) LABELS.—Owners or occupants obtaining an  
15          audit under this section shall be entitled to obtain one or  
16          more building labels provided under section 512, indi-  
17          cating the level of energy efficiency found by the audit  
18          and, if appropriate, indicating an Energy Star rating, to  
19          be posted in an appropriate location near heating and cool-  
20          ing equipment or major appliances.

21          (e) RECORDATION.—The results of an audit con-  
22          ducted under this section shall be recorded with State or  
23          local property and tax records, and shall be available for  
24          public review.

1 (f) FREQUENCY OF AUDITS.—An owner or occupant  
2 of a building may obtain a subsequent audit under this  
3 section only after the owner or occupant demonstrates en-  
4 ergy efficiency expenditures for the building exceeding  
5 \$3,000, or evidence of energy efficiency improvements in  
6 accordance with the prior audit yielding a 20 percent or  
7 greater decline in annual energy consumption from a prior  
8 year.

9 (g) DISTRIBUTION FORMULA.—The distribution of  
10 funds to States under this section shall be based on the  
11 same formula as is used under section 501(c).

12 **SEC. 514. REAL ESTATE INDUSTRY COORDINATION.**

13 (a) IN GENERAL.—The Administrator shall establish  
14 standards for a program for States to conduct, in coordi-  
15 nation with associations of real estate professionals and  
16 other stakeholders, to ensure that—

17 (1) Energy Star designations and label informa-  
18 tion are prominently featured in multiple listings for  
19 homes or other buildings;

20 (2) signage is available for homes or other  
21 buildings designated as Energy Star homes or build-  
22 ings; and

23 (3) the rating given a building under section  
24 512(b)(4) is included in building appraisals.

1 (b) AWARD PROGRAM FOR REAL ESTATE PROFES-  
2 SIONALS.—The Administrator shall provide awards to pro-  
3 vide appropriate incentives to real estate professionals who  
4 most effectively utilize Energy Star information in ap-  
5 praisals, sales, and resales.

6 (c) DISTRIBUTION FORMULA.—The distribution of  
7 funds to States under this section shall be based on the  
8 same formula as is used under section 501(c).

9 **SEC. 515. GREATER ENERGY EFFICIENCY IN BUILDING**  
10 **CODES.**

11 (a) IN GENERAL.—Section 304 of the Energy Con-  
12 servation and Production Act (42 U.S.C. 6833) is amend-  
13 ed to read as follows:

14 **“SEC. 304. UPDATING STATE BUILDING ENERGY EFFI-**  
15 **CIENCY CODES.**

16 “(a) UPDATING NATIONAL MODEL BUILDING EN-  
17 ERGY CODES.—(1) The Secretary shall support updating  
18 the national model building energy codes and standards  
19 at least every three years to achieve overall energy savings,  
20 compared to the 2006 IECC for residential buildings and  
21 ASHRAE Standard 90.1–2004 for commercial buildings,  
22 of at least—

23 “(A) 30 percent in editions of each model code  
24 or standard released in or after 2010; and

1           “(B) 50 percent in editions of each model code  
2           or standard released in or after 2020.

3 Targets for specific years shall be set by the Secretary  
4 at least 3 years in advance of each target year, coordinated  
5 with the IECC and ASHRAE Standard 90.1 cycles, at the  
6 maximum level of energy efficiency that is technologically  
7 feasible and life-cycle cost effective.

8           “(2)(A) Whenever the provisions of the IECC or  
9 ASHRAE Standard 90.1 regarding building energy use  
10 are revised, the Secretary shall make a preliminary deter-  
11 mination not later than 90 days after the date of the revi-  
12 sion, and a final determination not later than 12 months  
13 after the date of such revision, on—

14           “(i) whether such revision will improve energy  
15 efficiency in buildings; and

16           “(ii) whether such revision will meet the targets  
17 under paragraph (1).

18           “(B) If the Secretary makes a determination under  
19 subparagraph (A)(ii) that a code or standard does not  
20 meet the targets under paragraph (1), or if a national  
21 model code or standard is not updated for more than three  
22 years, then the Secretary shall, within 12 months after  
23 such determination, establish a modified code or standard  
24 that meets such targets. Any such modified code or stand-  
25 ard—



1           “(i) shall achieve the maximum level of energy  
2           savings that is technologically feasible and life-cycle  
3           cost-effective;

4           “(ii) shall be based on the latest revision of the  
5           IECC or ASHRAE Standard 90.1, including any  
6           amendments or additions thereto, but may also con-  
7           sider other model codes or standards; and

8           “(iii) shall serve as the baseline for the next de-  
9           termination under subparagraph (A)(i).

10          “(C) The Secretary shall provide the opportunity for  
11          public comment on targets, determinations, and modified  
12          codes and standards under this subsection, and shall pub-  
13          lish notice of targets, determinations, and modified codes  
14          and standards under this subsection in the Federal Reg-  
15          ister.

16          “(b) STATE CERTIFICATION OF BUILDING ENERGY  
17          CODE UPDATES.—(1) Not later than 2 years after the  
18          date of enactment of this subsection, each State shall cer-  
19          tify to the Secretary that it has reviewed and updated the  
20          provisions of its residential and commercial building codes  
21          regarding energy efficiency. Such certification shall in-  
22          clude a demonstration that such State’s code provisions  
23          meet or exceed the 2006 IECC for residential buildings  
24          and the ASHRAE Standard 90.1–2007 for commercial  
25          buildings, or achieve equivalent or greater energy savings.

1           “(2)(A) If the Secretary makes an affirmative deter-  
2 mination under subsection (a)(2)(A)(i) or establishes a  
3 modified code or standard under subsection (a)(2)(B),  
4 each State shall, within 2 years after such determination  
5 or establishment, certify that it has reviewed and updated  
6 the provisions of its building code regarding energy effi-  
7 ciency. Such certification shall include a demonstration  
8 that such State’s code provisions meet or exceed the re-  
9 vised code or standard, or achieve equivalent or greater  
10 energy savings.

11           “(B) If the Secretary fails to make a determination  
12 under subsection (a)(2)(A)(i) by the date specified in sub-  
13 section (a)(2), or makes a negative determination, each  
14 State shall within 2 years after the specified date or the  
15 date of the determination, certify that it has reviewed the  
16 revised code or standard, and updated the provisions of  
17 its building code regarding energy efficiency to meet or  
18 exceed any provisions found to improve energy efficiency  
19 in buildings, or to achieve equivalent or greater energy  
20 savings in other ways.

21           “(c) STATE CERTIFICATION OF COMPLIANCE WITH  
22 BUILDING CODES.—(1) Each State shall, not later than  
23 3 years after a certification under subsection (b), certify  
24 that it has—

1           “(A) achieved compliance under paragraph (3)  
2           with the certified State building energy code or with  
3           the associated model code or standard; or

4           “(B) made significant progress under para-  
5           graph (4) toward achieving compliance with the cer-  
6           tified State building energy code or with the associ-  
7           ated model code or standard.

8           If the State certifies progress toward achieving compli-  
9           ance, the State shall repeat the certification each year  
10          until it certifies that it has achieved compliance.

11          “(2) A certification under paragraph (1) shall include  
12          documentation of the rate of compliance based on inde-  
13          pendent inspections of a random sample of the new and  
14          renovated buildings covered by the code in the preceding  
15          year, or based on an alternative method that yields an ac-  
16          curate measure of compliance.

17          “(3)(A) A State shall be considered to achieve compli-  
18          ance under paragraph (1) if—

19                 “(i) at least 90 percent of new and renovated  
20                 building space covered by the code in the preceding  
21                 year substantially meets all the requirements of the  
22                 code regarding energy efficiency, or achieves an  
23                 equivalent energy savings level; or

24                 “(ii) the estimated excess energy use of new  
25                 and renovated buildings that did not meet the code

1 in the preceding year, compared to a baseline of  
2 comparable buildings that meet the code, is not more  
3 than 5 percent of the estimated energy use of all  
4 new and renovated buildings covered by the code in  
5 the preceding year.

6 “(B) Only renovations with building permits are cov-  
7 ered under this paragraph. If the Secretary determines the  
8 percentage targets under subparagraph (A) are not rea-  
9 sonably achievable for renovated residential or commercial  
10 buildings, the Secretary may reduce the targets for such  
11 renovated buildings to the highest achievable level.

12 “(4)(A) A State shall be considered to have made sig-  
13 nificant progress toward achieving compliance for pur-  
14 poses of paragraph (1) if the State—

15 “(i) has developed and is implementing a plan  
16 for achieving compliance within 8 years, assuming  
17 continued adequate funding, including active train-  
18 ing and enforcement programs;

19 “(ii) after one or more years of adequate fund-  
20 ing, has demonstrated progress, in conformance with  
21 the plan described in clause (i), toward compliance;

22 “(iii) after five or more years of adequate fund-  
23 ing, meets the requirement in paragraph (3) sub-  
24 stituting 80 percent for 90 percent or substituting  
25 10 percent for 5 percent; and

1           “(iv) has not had more than 8 years of ade-  
2           quate funding.

3           “(B) Funding shall be considered adequate, for pur-  
4           poses of this paragraph, when the Federal Government  
5           provides to the States at least \$50,000,000 in a year in  
6           funding and support for development and implementation  
7           of State building energy codes, including for training and  
8           enforcement.

9           “(d) FAILURE TO MEET DEADLINES.—(1) A State  
10          that has not made a certification required under sub-  
11          section (b) or (c) by the applicable deadline shall submit  
12          to the Secretary a report on—

13                 “(A) the status of the State with respect to  
14                 meeting the requirements and submitting the certifi-  
15                 cation; and

16                 “(B) a plan for meeting the requirements and  
17                 submitting the certification.

18          “(2) Any State for which the Secretary has not ac-  
19          cepted a certification by a deadline under subsection (b)  
20          or (c) of this section is out of compliance with this section.

21          “(3) In any State that is out of compliance with this  
22          section, a local government may be in compliance with this  
23          section by meeting the certification requirements under  
24          subsections (b) and (c) of this section.

1           “(4) The Secretary shall annually submit to Con-  
2 gress, and publish in the Federal Register, a report on  
3 the status of national model building energy codes and  
4 standards, the status of code adoption and compliance in  
5 the States, and implementation of this section. The report  
6 shall include estimates of impacts of past action under this  
7 section and potential impacts of further action on lifetime  
8 energy use by buildings and resulting energy costs to indi-  
9 viduals and businesses.

10           “(e) TECHNICAL ASSISTANCE.—(1) The Secretary  
11 shall on a timely basis provide technical assistance to  
12 model code-setting and standard development organiza-  
13 tions. This assistance shall include technical assistance as  
14 requested by the organizations in evaluating code or  
15 standards proposals or revisions, building energy analysis  
16 and design tools, building demonstrations, and design as-  
17 sistance and training. The Secretary shall submit code and  
18 standard amendment proposals, with supporting evidence,  
19 sufficient to enable the national model building energy  
20 codes and standards to meet the targets in subsection  
21 (a)(1).

22           “(2) The Secretary shall provide technical assistance  
23 to States to implement the requirements of this section,  
24 including procedures for States to demonstrate that their  
25 code provisions achieve equivalent or greater energy sav-

1 ings than the national model codes and standards, and to  
2 improve and implement State residential and commercial  
3 building energy efficiency codes or to otherwise promote  
4 the design and construction of energy efficient buildings.

5       “(f) AVAILABILITY OF INCENTIVE FUNDING.—(1)  
6 The Secretary shall provide incentive funding to States to  
7 implement the requirements of this section, and to im-  
8 prove and implement State residential and commercial  
9 building energy efficiency codes, including increasing and  
10 verifying compliance with such codes. In determining  
11 whether, and in what amount, to provide incentive funding  
12 under this subsection, the Secretary shall consider the ac-  
13 tions proposed by the State to implement the requirements  
14 of this section, to improve and implement residential and  
15 commercial building energy efficiency codes, and to pro-  
16 mote building energy efficiency through the use of such  
17 codes.

18       “(2) Additional funding shall be provided under this  
19 subsection for implementation of a plan to achieve and  
20 document at least a 90 percent rate of compliance with  
21 residential and commercial building energy efficiency  
22 codes, based on energy performance—

23               “(A) to a State that has adopted and is imple-  
24               menting, on a Statewide basis—

1           “(i) a residential building energy efficiency  
2 code that meets or exceeds the requirements of  
3 the 2006 IECC, or any succeeding version of  
4 that code that has received an affirmative de-  
5 termination from the Secretary under sub-  
6 section (a)(2)(A)(i); and

7           “(ii) a commercial building energy effi-  
8 ciency code that meets or exceeds the require-  
9 ments of the ASHRAE Standard 90.1–2007, or  
10 any succeeding version of that standard that  
11 has received an affirmative determination from  
12 the Secretary under subsection (a)(2)(A)(i); or

13           “(B) in a State in which there is no Statewide  
14 energy code for either residential buildings or com-  
15 mercial buildings, or where State codes fail to com-  
16 ply with subparagraph (A), to a local government  
17 that has adopted and is implementing residential  
18 and commercial building energy efficiency codes, as  
19 described in subparagraph (A).

20           “(3) Of the amounts made available under this sub-  
21 section, the Secretary may use amounts required, not ex-  
22 ceeding \$500,000 for each State, to train State and local  
23 officials to implement codes described in paragraph (2).

24           “(4) There are authorized to be appropriated to carry  
25 out this subsection—



1           “(A) \$70,000,000 for each of fiscal years 2009  
2 through 2013; and

3           “(B) such sums as are necessary for fiscal year  
4 2014 and each fiscal year thereafter.”.

5       (b) DEFINITION.—Section 303 of the Energy Con-  
6 servation and Production Act (42 U.S.C. 6832) is amend-  
7 ed by adding at the end the following new paragraph:

8           “(17) The term ‘IECC’ means the International  
9 Energy Conservation Code.”.

## 10       **Subtitle C—Energy Star Appliance** 11           **Program Upgrades**

12       **SEC. 521. INDIVIDUAL APPLIANCE STANDARDS ACHIEVED**  
13           **BY CONSENSUS [TO BE SUPPLIED].**

14       **SEC. 522. TECHNICAL CORRECTIONS OF THE ENERGY INDE-**  
15           **PENDENCE AND SECURITY ACT OF 2007 [TO**  
16           **BE SUPPLIED].**

## 17       **Subtitle D—Transportation Energy** 18           **Efficiency Programs**

19       **SEC. 531. FREIGHT SECTOR EFFICIENCY TECHNOLOGIES**  
20           **AND STRATEGIES PROGRAM.**

21       (a) INSTALLATION OF TECHNOLOGIES.—A State  
22 may provide assistance from its SEED Fund under sec-  
23 tion 501 to a private or public entity for the installation  
24 of, or to finance the installation of, energy-efficient tech-

1 nologies certified by the Environmental Protection Agen-  
2 cy's SmartWay program.

3 (b) HEAVY-DUTY VEHICLE TECHNOLOGIES AND  
4 STRATEGIES.—The Administrator, through the  
5 SmartWay program, shall promote the availability of and  
6 encourage the adoption of heavy-duty vehicle energy effi-  
7 ciency technologies and strategies that meet the criteria  
8 for assistance from a SEED Fund under section 501.

9 **SEC. 532. HIGH-EFFICIENCY VEHICLES.**

10 A State may provide assistance from its SEED Fund  
11 under section 501—

12 (1) to enable low-income residents to obtain a  
13 new vehicle that achieves at least 25 percent more  
14 miles per gallon average fuel economy than the aver-  
15 age comparable new standard gas-powered vehicle,  
16 as determined by the Administrator; and

17 (2) for loan assistance for any person with re-  
18 spect to the portion of a new vehicle loan required  
19 to pay the difference between—

20 (A) acquiring a vehicle that achieves at  
21 least 25 percent more miles per gallon average  
22 fuel economy than the average comparable new  
23 standard gas-powered vehicle, as determined by  
24 the Administrator; and

1 (B) acquiring such a new standard gas-  
2 powered vehicle.

3 **SEC. 533. VEHICLE RECYCLING.**

4 A State may provide assistance from its SEED Fund  
5 under section 501 to encourage private entities to pur-  
6 chase vehicles with Environmental Protection Agency av-  
7 erage miles per gallon ratings of 15 miles per gallon or  
8 less for permanent disposal and recycling of materials, but  
9 not for replacement parts.

10 **Subtitle E—Industrial Energy**  
11 **Efficiency Programs**

12 **SEC. 541. INDUSTRIAL PLANT ENERGY EFFICIENCY STAND-**  
13 **ARDS.**

14 The Secretary of Energy shall develop, as part of the  
15 existing Department of Energy program of developing  
16 ANSI accredited standards for industrial benchmarking,  
17 industrial plant energy efficiency certification standards  
18 and seek ANSI certification of such standards.

19 **SEC. 542. ELECTRIC AND THERMAL ENERGY EFFICIENCY**  
20 **AWARD PROGRAMS.**

21 (a) **THERMAL AND ELECTRIC ENERGY RECOVERY**  
22 **AWARDS.**—The Secretary of Energy shall establish a pro-  
23 gram to award emission allowances to the owners and op-  
24 erators of new and existing electric energy generation fa-  
25 cilities or thermal energy production facilities using fossil

1 or nuclear fuel, to encourage them to use innovative means  
2 of recovering any thermal energy that is a potentially use-  
3 ful byproduct of electric power generation or other proc-  
4 esses to—

5 (1) generate additional electric energy; or

6 (2) make sales of thermal energy not used for  
7 electric generation in the form of steam, hot water,  
8 chilled water, desiccant regeneration, or other com-  
9 mercially valid purposes.

10 (b) AMOUNT OF AWARDS.—The amount of the  
11 awards under subsection (a) shall be based on the increase  
12 in net energy efficiency provided by the innovative energy  
13 recovery method used at the facility concerned in relation-  
14 ship to the current standard technology in use at other  
15 similar facilities, and shall equal not less than 50 percent  
16 of the tons of carbon emissions saved during the first 5  
17 years of facility operation, subject to the availability of  
18 emission allowances. Not more than 5 percent of the allow-  
19 ances available under this section may be distributed to  
20 any single facility. No person may receive assistance both  
21 under this section and under the Waste Energy Incentive  
22 Grant Program under section 373 of the Energy Policy  
23 and Conservation Act (42 U.S.C. 6343).

24 (c) REGULATORY STATUS.—The Secretary of Energy  
25 shall assist State regulatory commissions to identify and

1 make changes in State regulatory programs for electric  
2 utilities to provide appropriate regulatory status for ther-  
3 mal energy byproduct businesses of State regulated elec-  
4 tric utilities to encourage those utilities to enter businesses  
5 making the sales referred to in subsection (a)(2), and to  
6 encourage self-regulated utilities and unregulated entities  
7 to achieve such efficiency increases.

8 (d) ELIGIBILITY FOR SEED LOANS.—Owners and  
9 operators of electric generation and thermal energy facili-  
10 ties shall be eligible for SEED Fund loans under section  
11 501 to provide initial capital for entering into businesses  
12 involving sales referred to in subsection (a)(2).

13 **Subtitle F—State Efficiency**  
14 **Programs**

15 **SEC. 551. STATE ELECTRICITY EFFICIENCY PROGRAM.**

16 (a) DEFINITION OF ELECTRICITY SAVINGS.—In this  
17 section:

18 (1) IN GENERAL.—The term “electricity sav-  
19 ings” means a net reduction in statewide end-use  
20 electricity consumption that is achieved through resi-  
21 dential, commercial, and industrial energy efficiency  
22 measures and programs over a specified time period,  
23 relative to projected consumption for the same time  
24 period, as determined by the Administrator.

1           (2) INCLUSIONS.—The term “electricity sav-  
2           ings” includes savings achieved as a result of—

3                   (A) electricity-saving practices; and

4                   (B) installation of energy-saving tech-  
5           nologies and devices.

6           (b) ESTABLISHMENT OF PROGRAM.—For each cal-  
7           endar year from 2018 through 2024, the Administrator  
8           shall distribute allowances available to the States for elec-  
9           tricity efficiency, pursuant to sections 721(a)(3) and 723  
10          of the Clean Air Act in accordance with this section, to  
11          encourage cost-effective investment in energy efficiency  
12          measures and programs.

13          (c) DISTRIBUTION OF EMISSION ALLOWANCES.—

14               (1) IN GENERAL.—The Administrator shall es-  
15               tablish, by rule, a Start-Up Formula and a Perform-  
16               ance-Based Formula, in accordance with paragraphs  
17               (2) and (3) of this subsection, which shall be used  
18               by the Administrator to distribute emission allow-  
19               ances under this section.

20               (2) START-UP FORMULA.—The Start-up For-  
21               mula referred to in paragraph (1) shall provide for  
22               the distribution of emission allowances based on the  
23               following 2 factors, each given equal weight:

24                   (A) The proportion that—

1 (i) the quantity of electricity delivered  
2 to consumers within the State during the  
3 3 calendar years preceding the calendar  
4 year in which the allowances are distrib-  
5 uted; bears to

6 (ii) the total quantity of electricity de-  
7 livered to consumers in the United States  
8 during those 3 calendar years.

9 (B) The proportion that—

10 (i) the population of the State in the  
11 most recent year for which data is avail-  
12 able for all States, as determined by the  
13 Administrator; bears to

14 (ii) the population of the United  
15 States in that year.

16 (3) PERFORMANCE-BASED FORMULA.—The  
17 Performance-Based Formula referred to in para-  
18 graph (1) shall provide for the distribution of emis-  
19 sion allowances among States in direct proportion to  
20 the quantity of electricity savings actually achieved  
21 within each State in the prior year as a result of en-  
22 ergy efficiency measures and programs implemented  
23 in the State. Such formula shall—

24 (A) define an appropriate baseline for cal-  
25 culating electricity savings;

1 (B) define a minimum level of annual  
 2 statewide electricity savings, which shall not be  
 3 less than 0.5 percent, necessary to qualify for  
 4 funding under the formula;

5 (C) take account of past performance in  
 6 achieving electricity savings so as not to penal-  
 7 ize States that have taken early action to im-  
 8 prove efficiency; and

9 (D) maximize, to the greatest extent pos-  
 10 sible, the incentive for States to achieve cost-ef-  
 11 fective electricity savings.

12 (4) DISTRIBUTION.—The Administrator shall  
 13 distribute the emission allowances available under  
 14 subsection (b) in accordance with the following table:

Calendar Year	Percent of Allowances Allocated According to Start-Up Formula	Percent of Allowances Allocated According to Performance-Based Formula
2018	100	0
2019	100	0
2020	50	50
2021	50	50
2022 through 2025	0	100

15 (d) ELIGIBILITY.—

16 (1) IN GENERAL.—In fiscal years 2020 and  
 17 2021, a State shall be eligible to receive emission al-  
 18 lowances pursuant to both the Start-Up Formula  
 19 and the Performance-Based Formula.



1           (2) ELIGIBILITY BASED ON START-UP FOR-  
2 MULA.—To be eligible to receive emission allowances  
3 distributed based on the Start-Up Formula, a State  
4 must adopt a binding statewide electricity savings  
5 target that requires such State to achieve annual  
6 electricity savings of not less than 0.25 percent in  
7 2018 and 2019, and not less than 0.5 percent in  
8 2020 and 2021.

9           (e) USE OF ALLOWANCES.—

10           (1) IN GENERAL.—A State’s use of emission al-  
11 lowances distributed pursuant to this section shall be  
12 limited to measures and programs (including the  
13 State Energy Efficiency Development Fund Pro-  
14 gram) to—

15                   (A) increase residential, industrial, and  
16 commercial energy efficiency;

17                   (B) increase transmission and distribution  
18 efficiency; and

19                   (C) promote deployment of—

20                           (i) advanced biofuels that meet the  
21 baseline greenhouse gas lifecycle emissions  
22 requirements as defined in section  
23 211(o)(1)(B) of the Clean Air Act (42  
24 U.S.C. 7545(o)(1)(B));

25                           (ii) low-carbon emission vehicles; and

1 (iii) increases in efficiency of pas-  
2 senger or commercial vehicles.

3 (2) CERTIFICATION AND VERIFICATION.—The  
4 Administrator shall establish—

5 (A) guidelines specifying the types of ac-  
6 tivities for which emission allowances distrib-  
7 uted pursuant to this section may be used;

8 (B) procedures requiring States to certify  
9 that emission allowances distributed pursuant  
10 to this section are used in accordance with this  
11 subsection; and

12 (C) procedures for reviewing and verifying  
13 States' compliance with this subsection.

14 (3) PENALTIES.—If the Administrator deter-  
15 mines that a State is not in compliance with this  
16 subsection, the Administrator may withhold a por-  
17 tion of the emission allowances, equal to twice the  
18 number of allowances received by the State that  
19 were not used in accordance with the requirements  
20 in this subsection, for which such State would other-  
21 wise be eligible under this section in later years.

22 (f) MEASUREMENT, MONITORING, CERTIFICATION,  
23 AND VERIFICATION OF ELECTRICITY SAVINGS.—

24 (1) METHODS AND STANDARDS.—The Adminis-  
25 trator shall establish national measurement, moni-

1 toring, certification, and verification methods and  
2 standards to be used to evaluate the quantity of  
3 electricity savings achieved by a State for purposes  
4 of distributing allowances based on the Performance-  
5 Based Formula.

6 (2) STATE REQUIREMENTS.—As a condition of  
7 receipt of allowances based on the Performance-  
8 Based Formula, States must, in accordance with  
9 paragraph (1)—

10 (A) quantify and certify the quantity of  
11 electricity savings achieved each year by the  
12 State; and

13 (B) provide data necessary to support and  
14 verify such claim, as determined by the Admin-  
15 istrator.

16 (g) REGULATIONS.—Not later than December 15,  
17 2015, the Administrator shall promulgate regulations gov-  
18 erning the implementation of this section. The Adminis-  
19 trator shall review and, as appropriate, revise such regula-  
20 tions at least every 5 years.

21 **SEC. 552. STATE AND LOCAL TRANSPORTATION ENERGY**  
22 **EFFICIENCY.**

23 (a) DEFINITIONS.—In this section:

1           (1) ELIGIBLE ENTITY.—The term “eligible enti-  
2           ty” means a State or an eligible unit of local govern-  
3           ment.

4           (2) ELIGIBLE UNIT OF LOCAL GOVERNMENT.—  
5           The term “eligible unit of local government”  
6           means—

7                   (A) a city with a population of at least  
8                   35,000; or

9                   (B) a county with a population of at least  
10                  200,000.

11           (3) TRANSPORTATION ENERGY EFFICIENCY  
12           PLAN.—The term “transportation energy efficiency  
13           plan” means a comprehensive plan to reduce trans-  
14           portation greenhouse gas emissions by reducing vehi-  
15           cle miles traveled and improving transportation sys-  
16           tem efficiency within a jurisdiction, developed pursu-  
17           ant to guidelines issued by the Administrator under  
18           subsection (e) of this section.

19           (4) TRANSPORTATION SYSTEM EFFICIENCY.—  
20           The term “transportation system efficiency” means  
21           the efficiency of moving goods and people, holding  
22           efficiency standards for new vehicles constant.

23           (b) ESTABLISHMENT OF PROGRAM.—In each of cal-  
24           endar years 2011 through 2024, the Administrator shall  
25           distribute emission allowances available under sections

1 721(a)(3) and 723 of the Clean Air Act to eligible entities  
2 for transportation energy efficiency programs to support  
3 the development and implementation of strategies to re-  
4 duce greenhouse gas emissions by reducing vehicle miles  
5 traveled and improving transportation efficiency within  
6 their respective jurisdictions.

7 (c) ALLOCATION OF ALLOWANCES.—Of emission al-  
8 lowances made available under sections 721(a)(3) and 723  
9 of the Clean Air Act for each calendar year, the Adminis-  
10 trator shall allocate—

11 (1) 70 percent to eligible units of local govern-  
12 ment; and

13 (2) 30 percent to States.

14 (d) SUPPORT FROM FEDERAL AGENCIES.—For the  
15 use of State and local entities, the Administrator, in con-  
16 sultation with the Secretary of Transportation, shall pro-  
17 vide guidance, support, tools, and information on best  
18 practices, scenario analysis, data improvement, model im-  
19 provement, and implementation. The Secretary of Energy  
20 shall provide guidance, support, tools, and information to  
21 calculate building electricity and fuel savings from com-  
22 pact development.

23 (e) GUIDELINES FOR TRANSPORTATION ENERGY EF-  
24 FICIENCY PLANS AND IMPLEMENTATION PROPOSALS.—  
25 Not later than 24 months after the date of enactment of

1 this Act, the Administrator shall promulgate guidelines for  
2 the development, by eligible units of local government and  
3 by States, of—

4 (1) transportation energy efficiency plans for  
5 the relevant jurisdiction; and

6 (2) proposals for the implementation of one or  
7 more elements of such a plan.

8 (f) PLANNING.—The Administrator is authorized to  
9 make initial allocations to eligible entities to support the  
10 development of transportation energy efficiency plans and  
11 implementation proposals in accordance with the guide-  
12 lines issued under subsection (e), including through the  
13 retention of technical consultants. The development of the  
14 plan and proposal may include data collection, model im-  
15 provement and implementation, analysis of different re-  
16 duction scenarios, and the involvement of stakeholders.

17 (g) IMPLEMENTATION.—

18 (1) IN GENERAL.—The Administrator shall  
19 award emission allowances on a competitive basis, to  
20 eligible entities to support the implementation of  
21 policies, measures, and projects that will substan-  
22 tially reduce greenhouse gas emissions by reducing  
23 vehicle miles traveled, and improving transportation  
24 system efficiency, within the relevant jurisdiction.

25 (2) REQUIREMENTS.—

1           (A) IN GENERAL.—The Administrator  
2 shall not provide to an eligible entity any emis-  
3 sion allowances under this section until the eli-  
4 gible entity has submitted a transportation en-  
5 ergy efficiency plan and an implementation pro-  
6 posal that satisfy the requirements of the guide-  
7 lines established under subsection (e), and the  
8 Administrator has approved such plan and such  
9 proposal under this subsection.

10           (B) APPROVAL BY ADMINISTRATOR.—

11           (i) IN GENERAL.—The Administrator  
12 shall approve or disapprove a transpor-  
13 tation energy efficiency plan or implemen-  
14 tation proposal submitted under this sub-  
15 section by not later than 180 days after  
16 the date of submission of the plan and pro-  
17 posal.

18           (ii) DISAPPROVAL.—If the Adminis-  
19 trator disapproves a transportation energy  
20 efficiency plan or implementation proposal,  
21 the Administrator shall notify the eligible  
22 entity of the reasons for the disapproval  
23 and the eligible entity may revise and re-  
24 submit the plan or proposal for approval.

1           (3) SELECTION CRITERIA.—In distributing  
2           emission allowances under this subsection, the Ad-  
3           ministrators shall seek to maximize the reduction of  
4           greenhouse gas emissions from reductions in vehicle  
5           miles traveled and improved transportation system  
6           efficiency achieved per dollar of assistance provided.

7           (4) USE OF ALLOWANCES.—Emission allow-  
8           ances provided under this subsection may be used to  
9           implement any program or project that the Adminis-  
10          trator determines is likely to result in reduced green-  
11          house gas emissions from reductions in vehicle miles  
12          traveled and improved transportation system effi-  
13          ciency in the relevant jurisdiction, including—

14                (A) efforts to increase mass transit service  
15                and ridership, including by adding new mass  
16                transit systems;

17                (B) promotion of transit-oriented and  
18                mixed-infill development, including through the  
19                updating of relevant zoning or other regula-  
20                tions;

21                (C) construction of bicycle and pedestrian  
22                infrastructure;

23                (D) programs to promote telecommuting or  
24                satellite work centers;

25                (E) pricing measures;



- 1 (F) intermodal freight changes;  
2 (G) parking policies;  
3 (H) travel demand management programs;  
4 (I) traffic aligning;  
5 (J) bottleneck relief;  
6 (K) traffic flow smoothing;  
7 (L) idle reduction; and  
8 (M) policies to encourage the use of ret-  
9 rofit technology to reduce greenhouse gas emis-  
10 sions from existing mobile sources.

11 (h) WITHHOLDING OF ALLOWANCES.—The Adminis-  
12 trator may withhold from an eligible entity any portion  
13 of the emission allowances under this section if the Admin-  
14 istrator determines that the entity has failed to achieve  
15 compliance with any applicable guideline of the Adminis-  
16 trator relating to the program under this section.

17 (i) NATIONAL ACADEMY OF SCIENCES STUDY.—The  
18 Administrator shall contract with the National Academy  
19 of Sciences to conduct a study of and develop rec-  
20 ommendations for improving the accuracy of data on vehi-  
21 cle miles traveled and transportation system efficiency for  
22 the purposes of tracking greenhouse gas emissions and as-  
23 sessing the effectiveness of policies to reduce vehicle miles  
24 traveled and increase transportation system efficiency.  
25 The contract shall require the National Academy of

1 Sciences to submit a final study to the Administrator not  
2 later than 3 years after the date of enactment of this Act.

3 (j) REPORT.—Not later than May 31, 2015, and at  
4 least every 2 years thereafter, the Administrator shall  
5 transmit to Congress a report on—

6 (1) the status of transportation energy effi-  
7 ciency plans;

8 (2) national changes in greenhouse gas emis-  
9 sions from changes to vehicle miles traveled and  
10 transportation system efficiency; and

11 (3) the status of implementation of projects  
12 under this section.

13 **SEC. 553. STATE RECYCLING PROGRAMS.**

14 (a) ESTABLISHMENT OF PROGRAM.—In each of cal-  
15 endar years [2015 for allocation Options A and D; 2016  
16 for allocation Options B and C] through 2024, the Ad-  
17 ministrator shall distribute emission allowances available  
18 under sections 721(a)(3) and 723 of the Clean Air Act  
19 to States in accordance with this section for purposes of  
20 increasing recycling and reducing waste.

21 (b) DISTRIBUTION OF ALLOWANCES.—Not later than  
22 January 1, 2010, the Administrator shall promulgate reg-  
23 ulations governing distribution of emission allowances  
24 under this section. Such regulations shall at a minimum—

1           (1) establish a performance-based formula for  
2           distributing emission allowances under this section  
3           that will reward States for recycling and reducing  
4           waste; and

5           (2) establish a program for periodic review and  
6           verification of State programs to ensure that claimed  
7           recycling rates are being achieved in practice.

8           (c) PERIODIC UPDATING.—The Administrator shall  
9           review and, as appropriate, revise the regulations adopted  
10          under subsection (b) at least every 5 years. Any revised  
11          regulations shall adhere to the requirements set forth in  
12          paragraphs (1) and (2) of subsection (b).

13                           **TITLE VI—ADAPTATION**  
14                           **Subtitle A—National Climate**  
15                           **Change Adaptation Program**

16   **SEC. 601. DEFINITIONS.**

17           As used in this subtitle—

18           (1) COUNCIL.—The term “Council” means the  
19           National Climate Change Adaptation Council estab-  
20           lished under section 602.

21           (2) NATIONAL ASSESSMENT.—The term “Na-  
22           tional Assessment” refers to a National Climate  
23           Change Vulnerability Assessment prepared pursuant  
24           to section 604.

1           (3) NATIONAL CLIMATE CHANGE ADAPTATION  
2           FUND.—The term “National Climate Change Adap-  
3           tation Fund” means the National Climate Change  
4           Adaptation Fund established under section 731(a) of  
5           the Clean Air Act.

6           (4) NOAA.—The term “NOAA” means the Na-  
7           tional Oceanic and Atmospheric Administration.

8           (5) PROGRAM.—The term “Program” means  
9           the National Climate Change Adaptation Program  
10          established under section 603.

11          (6) TRIBAL GOVERNMENT.—The term “tribal  
12          government” means the official government of a fed-  
13          erally recognized Indian tribe.

14   **SEC. 602. NATIONAL CLIMATE CHANGE ADAPTATION COUN-**  
15                                   **CIL.**

16          (a) ESTABLISHMENT.—Not later than 90 days after  
17          the date of enactment of this Act, the President shall es-  
18          tablish a National Climate Change Adaptation Council,  
19          consisting of representatives, appointed by the head of the  
20          respective Federal agency, of—

- 21                   (1) NOAA;
- 22                   (2) the Environmental Protection Agency;
- 23                   (3) the Department of Agriculture;
- 24                   (4) the Department of Commerce;
- 25                   (5) the Department of Defense;

1 (6) the Department of Energy;

2 (7) the Department of Health and Human  
3 Services;

4 (8) the Department of Homeland Security;

5 (9) the Department of Housing and Urban De-  
6 velopment;

7 (10) the Department of the Interior;

8 (11) the Department of Transportation;

9 (12) the Army Corps of Engineers;

10 (13) the Centers for Disease Control;

11 (14) the Federal Emergency Management  
12 Agency;

13 (15) the National Aeronautics and Space Ad-  
14 ministration;

15 (16) the United States Geological Survey; and

16 (17) such other Federal agencies or depart-  
17 ments as the President considers appropriate.

18 (b) CHAIRPERSON.—The representative described in  
19 subsection (a)(1) shall be the chairperson of the Council.

20 (c) FUNCTIONS.—The Council shall serve as a forum  
21 for interagency consultation on, and coordination of, Fed-  
22 eral policies relating to assessment of, and adaptation to,  
23 the impacts of climate change on the United States and  
24 its territories.

1 **SEC. 603. NATIONAL CLIMATE CHANGE ADAPTATION PRO-**  
2 **GRAM.**

3 The Secretary of Commerce, acting through the Ad-  
4 ministrator of NOAA, shall establish within NOAA a Na-  
5 tional Climate Change Adaptation Program for the pur-  
6 pose of increasing the overall effectiveness of Federal cli-  
7 mate change adaptation efforts. Under the Program, the  
8 Administrator of NOAA shall, in consultation as appro-  
9 priate with the Council—

10 (1) develop and publish periodic National As-  
11 sessments under section 604;

12 (2) provide to Federal agencies, local, State,  
13 and tribal governments, and nongovernmental stake-  
14 holders policy-relevant scientific information, re-  
15 search products, decision tools, and technical sup-  
16 port related to climate change impacts and adapta-  
17 tion to such impacts, as provided in section 605; and

18 (3) advise Federal agencies on issues related to  
19 climate change impacts and adaptation to such im-  
20 pacts, including through the provision of technical  
21 support to Federal agencies in the development of  
22 agency climate change adaptation plans as required  
23 under section 606.

1 **SEC. 604. NATIONAL CLIMATE CHANGE VULNERABILITY AS-**  
2 **SESSMENTS.**

3 (a) IN GENERAL.—Not later than January 1, 2012,  
4 and every 4 years thereafter, the Administrator of NOAA  
5 shall publish and deliver to the President a National Cli-  
6 mate Change Vulnerability Assessment evaluating regional  
7 and national vulnerability to impacts of climate change,  
8 strategies to adapt to such impacts, and priorities for fur-  
9 ther research related to climate change impacts and adapt-  
10 ive capacity.

11 (b) CONTENTS.—

12 (1) REGIONAL ASSESSMENTS.—Each National  
13 Assessment shall include regional assessments for a  
14 sufficient number of geographic regions within the  
15 United States and its territories to effectively ad-  
16 dress specific climate change impacts at the regional  
17 and State or territorial levels. Each regional assess-  
18 ment shall—

19 (A) assess, at an appropriate geographic  
20 scale, the nature and probability of predicted  
21 short-term, medium-term, and long-term im-  
22 pacts of climate change on human health and a  
23 broad range of natural systems, resources, in-  
24 frastructure, and social and economic sectors;

25 (B) provide a regionally prioritized list of  
26 vulnerable systems and areas and an estimate

1 of the range of anticipated costs of climate  
2 change impacts within the region;

3 (C) describe current efforts within the re-  
4 gion to adapt to climate change impacts, in  
5 areas such as public health, emergency re-  
6 sponse, infrastructure and development, water  
7 resource management, agriculture, forest man-  
8 agement, and coastal management;

9 (D) identify gaps in current adaptation ef-  
10 forts within the region, strategies to address  
11 such gaps, and estimates of the costs of imple-  
12 menting such strategies;

13 (E) describe current research, observation,  
14 and monitoring activities focused on under-  
15 standing regional climate change impacts and  
16 adaptation to such impacts, as well as research  
17 and data needs and priorities in these areas;

18 (F) assess the adequacy of existing mecha-  
19 nisms for communication and coordination  
20 within the region between Federal agencies and  
21 regional, State, local, and tribal stakeholders  
22 and recommend measures to enhance such com-  
23 munication and coordination; and



1 (G) include any other information relevant  
2 to understanding regional climate change im-  
3 pacts and adaptation.

4 (2) NATIONAL SYNTHESIS.—Each National As-  
5 sessment shall include a synthesis of the regional as-  
6 sements, including—

7 (A) a description of relevant research on  
8 national-scale, international-scale, or global-  
9 scale climate change impacts, vulnerabilities,  
10 and adaptive strategies not addressed in the re-  
11 gional assessments;

12 (B) based on the regional assessments, a  
13 nationally prioritized list of vulnerable systems  
14 and regions in the United States and a national  
15 estimate of the range of costs of short-term,  
16 medium-term, and long-term costs of predicted  
17 climate change impacts;

18 (C) a nationally prioritized list of strate-  
19 gies and actions to address climate change im-  
20 pacts, including estimates of the costs of imple-  
21 menting such strategies and actions and the ap-  
22 propriate roles of relevant Federal Government  
23 agencies;

24 (D) a description of priorities for devel-  
25 oping Federal research, observation, and moni-

1           toring, and policy tools to meet the needs of  
2           State and local decisionmakers identified in the  
3           regional assessments;

4           (E) an assessment of the adequacy of ex-  
5           isting mechanisms for communication and co-  
6           ordination between Federal agencies and re-  
7           gional, State, local, and tribal stakeholders and  
8           recommendations for measures to enhance such  
9           communication and coordination;

10          (F) a description of the progress made to-  
11          wards achieving the objectives identified in the  
12          prior National Assessment, except that such re-  
13          quirement shall not apply to the first National  
14          Assessment; and

15          (G) any other relevant results from the re-  
16          gional assessments that have implications for  
17          Federal climate change research, mitigation, or  
18          adaptation efforts.

19          (c) **METHODOLOGICAL AND PROCEDURAL REQUIRE-**  
20          **MENTS.—**

21                (1) **CONSULTATION WITH COUNCIL.—**In devel-  
22                oping the National Assessments, the Administrator  
23                of NOAA shall consult with the Council and shall  
24                seek input and assistance from the Federal agencies

1 represented on the Council within their respective  
2 areas of expertise.

3 (2) CONSULTATION WITH LOCAL, STATE, AND  
4 REGIONAL STAKEHOLDERS.—In developing the Na-  
5 tional Assessments, the Administrator of NOAA and  
6 participating Federal agencies shall consult with  
7 State, local, and tribal governments and nongovern-  
8 mental stakeholders at the local, State, and regional  
9 levels, to facilitate coordination of efforts and to  
10 maximize the utility to local, State, regional, and  
11 tribal decision makers of the information provided  
12 by the National Assessment.

13 (3) BEST AVAILABLE SCIENCE.—The National  
14 Assessments shall be based on the best scientific and  
15 commercial data available.

16 (4) TREATMENT OF UNCERTAINTY.—To ensure  
17 that scientific uncertainties are addressed through a  
18 consistent methodology, all components of the Na-  
19 tional Assessments shall follow either—

20 (A) the guidance on treatment of uncer-  
21 tainty set forth in the Intergovernmental Panel  
22 on Climate Change's Guidance Notes for Lead  
23 Authors of the IPCC Fourth Assessment Re-  
24 port on Addressing Uncertainty; or

1 (B) such similar uniform guidelines on the  
2 treatment of uncertainty as the Administrator  
3 of NOAA may establish.

4 (5) UTILIZATION OF PRIOR RESEARCH AND AS-  
5 SESSMENTS.—In developing the National Assess-  
6 ments, the Administrator of NOAA shall, to the ex-  
7 tent practicable, take into consideration research  
8 and information contained in—

9 (A) the reports of the Intergovernmental  
10 Panel on Climate Change;

11 (B) reports or research published by the  
12 Global Change Research Program and the Cli-  
13 mate Change Science Program; and

14 (C) any existing climate change adaptation  
15 strategy, report, or assessment prepared by or  
16 for a Federal, State, local, or tribal government  
17 entity.

18 **SEC. 605. CLIMATE CHANGE ADAPTATION SERVICES.**

19 (a) NATIONAL CLIMATE SERVICE.—The Secretary of  
20 Commerce, acting through the Administrator of NOAA,  
21 shall establish within NOAA a National Climate Service  
22 to serve as a clearinghouse to provide State, local, and  
23 tribal government decisionmakers with access to regionally  
24 and nationally relevant information, data, forecasts, and

1 services relating to climate change impacts and adaptation  
2 to such impacts. The National Climate Service shall—

3 (1) develop and provide access to policy-relevant  
4 climate information products, databases, decision  
5 tools, and services for Federal, State, local, and trib-  
6 al government decisionmakers and policymakers;

7 (2) provide technical assistance to Federal,  
8 State, local, and tribal government efforts to assess  
9 vulnerability to climate change impacts and develop  
10 appropriate strategies and plans to reduce such vul-  
11 nerability;

12 (3) facilitate communication and coordination  
13 among Federal, State, local, and tribal stakeholders  
14 with regard to climate change information and adap-  
15 tation strategies; and

16 (4) undertake education and outreach initiatives  
17 related to climate change impacts, vulnerabilities,  
18 and the application of climate information in deci-  
19 sionmaking.

20 (b) REGIONAL AND NATIONAL WORKSHOPS.—To fa-  
21 cilitate information exchange, outreach, and coordination  
22 of efforts on assessment of and adaptation to climate  
23 change impacts, the Administrator of NOAA shall, during  
24 each 4-year cycle during which a National Assessment is  
25 being prepared (or, in the case of the first National As-

1 assessment, the period between the date of enactment of this  
2 Act and January 1, 2012), convene—

3 (1) at least one stakeholder workshop in each  
4 region identified by the National Assessment, to  
5 which appropriate governmental and nongovern-  
6 mental stakeholders from the region are invited; and

7 (2) at a date after all of the regional workshops  
8 described in paragraph (1) have been completed, at  
9 least one national-level workshop to which appro-  
10 priate governmental and nongovernmental stake-  
11 holders from all of the regions identified by the Na-  
12 tional Assessments are invited.

13 (c) **OBSERVATION AND MONITORING.**—The Adminis-  
14 trator of NOAA is authorized to deploy such observation  
15 and monitoring systems, including remote sensing sys-  
16 tems, as may be necessary to support the National Climate  
17 Change Adaptation Program established under this sub-  
18 title.

19 **SEC. 606. FEDERAL AGENCY CLIMATE CHANGE ADAPTA-**  
20 **TION PLANS.**

21 (a) **PUBLICATION AND REVIEW.**—

22 (1) **PRESIDENTIAL REVIEW.**—Within 1 year  
23 after the date of publication of each National As-  
24 sessment, each Federal agency with representation  
25 on the Council shall—

1 (A) complete an agency climate change ad-  
2 aptation plan detailing the agency's current and  
3 projected efforts to address the potential im-  
4 pacts of climate change on matters within the  
5 agency's jurisdiction; and

6 (B) submit such agency climate change ad-  
7 aptation plan to the President for review.

8 (2) SUBMISSION TO CONGRESS.—Within 18  
9 months after the date of publication of each Na-  
10 tional Assessment, each Federal agency with rep-  
11 resentation on the Council shall submit the agency  
12 climate change adaptation plan described in para-  
13 graph (1), as finalized following Presidential review,  
14 to the House Committee on Energy and Commerce,  
15 the Senate Committee on Environment and Public  
16 Works, and the committees in the House of Rep-  
17 resentatives and the Senate with principal jurisdic-  
18 tion over the relevant agency.

19 (b) REQUIREMENTS.—Each agency climate change  
20 adaptation plan shall include—

21 (1) a review of the current impacts of climate  
22 change on matters within the agency's jurisdiction;

23 (2) a review of anticipated future (short-term,  
24 medium-term, and long-term) impacts of climate  
25 change on matters within the agency's jurisdiction,

1 including an assessment of the probability of such  
2 impacts that follows the guidelines on treatment of  
3 uncertainty established for the National Assess-  
4 ments;

5 (3) a description of priorities, within the scope  
6 of the agency's jurisdiction, for building the adaptive  
7 capacity of the United States and its territories;

8 (4) a review of the agency's current efforts to  
9 address climate change impacts on matters within  
10 its jurisdiction, including a description of how cur-  
11 rent and future impacts are being integrated into  
12 agency decisionmaking and a description of budg-  
13 etary and human resources dedicated to adaptation  
14 to climate change;

15 (5) a description of initiatives that will be un-  
16 dertaken to address climate change impacts on mat-  
17 ters within the jurisdiction of the agency, includ-  
18 ing—

19 (A) the strategic objectives of such initia-  
20 tives;

21 (B) the resources that will be dedicated to  
22 such initiatives;

23 (C) timelines for implementation; and

24 (D) benchmarks and methods for assessing  
25 effectiveness;



1           (6) a description of current and proposed mech-  
2           anisms to enhance cooperation on climate change ad-  
3           aptation efforts with other Federal agencies and  
4           with State, local, and tribal governments and non-  
5           governmental stakeholders;

6           (7) an assessment of the agency's success in  
7           meeting the objectives outlined in its most recent  
8           agency climate change adaptation plan, except that  
9           this paragraph shall not apply to the first agency cli-  
10          mate change adaptation plan; and

11          (8) an estimate of the budgetary and human re-  
12          sources needed to address climate change impacts on  
13          matters within the jurisdiction of the agency.

14 **SEC. 607. FEDERAL FUNDING FOR STATE, LOCAL, AND**  
15 **TRIBAL ADAPTATION PROJECTS.**

16          (a) ESTABLISHMENT OF PROGRAM.—Not later than  
17          January 1, 2013, the President shall—

18               (1) directly, or through such Federal agency or  
19               agencies as the President may designate, promulgate  
20               regulations establishing an integrated program to  
21               use funds in the National Climate Change Adapta-  
22               tion Fund to provide financial assistance to State,  
23               local, and tribal governments, individually or jointly,  
24               for implementation of projects to reduce vulner-  
25               ability to climate change impacts; and

1           (2) submit such regulations to the House Com-  
2           mittee on Energy and Commerce, the Senate Com-  
3           mittee on Environment and Public Works, and other  
4           committees of relevant jurisdiction in the House of  
5           Representatives and the Senate.

6           (b) CONSULTATION.—In promulgating the regula-  
7           tions under subsection (a), the President, or such Federal  
8           agency or agencies as the President may designate, shall—

9           (1) consult with the Administrator of NOAA  
10          and the Council; and

11          (2) take into consideration the findings and rec-  
12          ommendations of the most recent National Assess-  
13          ment and any relevant agency climate change adap-  
14          tation plans developed pursuant to section 606.

15          (c) REQUIREMENTS.—The regulations promulgated  
16          under subsection (a) shall—

17          (1) identify the Federal agency or agencies to  
18          be charged with administering each element of the  
19          program, and any relevant information relating to  
20          organization, governance, and respective responsibil-  
21          ities under the program;

22          (2) identify priorities and objectives for building  
23          State, local, and tribal governments' capacity to  
24          adapt to climate change impacts through financial  
25          support for State, local, and tribal projects;

1           (3) identify mechanisms, including grants or  
2           loans, through which funds within the National Cli-  
3           mate Change Adaptation Fund will be used to pro-  
4           vide financial support for projects implemented by  
5           State, local, or tribal governments;

6           (4) identify categories of projects eligible for  
7           funding under the program, consistent with the re-  
8           gional and national adaptation priorities identified in  
9           the National Assessment;

10          (5) describe procedures for submission, evalua-  
11          tion, and approval of project proposals;

12          (6) establish selection criteria for evaluating cli-  
13          mate change adaptation project proposals submitted,  
14          individually or jointly, by State, local, and tribal gov-  
15          ernments, including consideration of environmental  
16          impacts and cost-effectiveness in reducing vulner-  
17          ability to climate change impacts;

18          (7) establish criteria for allocating funding  
19          among different regions, States, localities, and In-  
20          dian tribes, and among different project categories;

21          (8) establish criteria and mechanisms for re-  
22          viewing project performance and for enforcing any  
23          restrictions imposed as a condition of supporting an  
24          approved project; and

1           (9) provide such other information regarding  
2           implementation of the proposed program as the  
3           President or the promulgating agency or agencies  
4           consider appropriate.

5           (d) PROGRAM IMPLEMENTATION.—If, after the 1-  
6           year period beginning on the date of submission of the  
7           regulations under subsection (a), Congress has not en-  
8           acted a statute codifying the program established by the  
9           regulations or an alternative to such program, the agency  
10          or agencies identified in the regulations pursuant to sub-  
11          section (c)(1) shall implement the regulations.

12          (e) PERIODIC REVISIONS.—

13               (1) SUBMISSION OF REVISED REGULATIONS.—  
14               If a program has been implemented pursuant to sub-  
15               section (d), the President shall, not later than Janu-  
16               ary 1 of the calendar year following the publication  
17               of each subsequent National Assessment, promulgate  
18               and submit to Congress revised regulations that—

19                       (A) meet the requirements of subsection  
20                       (c); and

21                       (B) reflect any relevant information or rec-  
22                       ommendations included in the most recent Na-  
23                       tional Assessment and relevant agency climate  
24                       change adaptation plans.

1           (2) IMPLEMENTATION OF REVISED REGULA-  
2           TIONS.—If, after the 1-year period beginning on the  
3           date of submission of any revised regulations under  
4           paragraph (1), Congress has not enacted a statute  
5           codifying the program established by revised regula-  
6           tions or an alternative to such program, the agency  
7           or agencies identified in the revised regulations  
8           under subsection (c)(1) shall implement the revised  
9           regulations.

10           **Subtitle B—Natural Resource**  
11                           **Adaptation**

12           **SEC. 621. PURPOSES.**

13           The purposes of this subtitle are to—

14           (1) establish an integrated Federal program to  
15           assist natural resources to become more resilient and  
16           adapt to and withstand the impacts of climate  
17           change and ocean acidification; and

18           (2) provide financial support and incentives for  
19           programs, strategies, and activities that assist nat-  
20           ural resources to become more resilient and adapt to  
21           the impacts of climate change and ocean acidifica-  
22           tion.

1 **SEC. 622. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
2 **TATION POLICY.**

3 It is the policy of the Federal Government, in co-  
4 operation with State and local governments, tribal organi-  
5 zations, and other interested stakeholders to use all prac-  
6 ticable means and measures to assist natural resources to  
7 become more resilient and adapt to and withstand the im-  
8 pacts of climate change and ocean acidification.

9 **SEC. 623. DEFINITIONS.**

10 In this subtitle:

11 (1) **COASTAL STATE.**—The term “coastal  
12 State” has the meaning given the term in section  
13 304 of the Coastal Zone Management Act of 1972  
14 (16 U.S.C. 1453).

15 (2) **ECOLOGICAL PROCESSES.**—The term “eco-  
16 logical processes” means biological, chemical, or  
17 physical interaction between the biotic and abiotic  
18 components of an ecosystem and includes—

- 19 (A) nutrient cycling;
- 20 (B) pollination;
- 21 (C) predator-prey relationships;
- 22 (D) soil formation;
- 23 (E) gene flow;
- 24 (F) disease epizootiology;
- 25 (G) larval dispersal and settlement;
- 26 (H) hydrological cycling;

1 (I) decomposition; and

2 (J) disturbance regimes such as fire and  
3 flooding.

4 (3) NATURAL RESOURCES.—The term “natural  
5 resources” means the terrestrial, freshwater, estua-  
6 rine, and marine fish, wildlife, plants, land, water,  
7 habitats, and ecosystems of the United States.

8 (4) TRIBAL ORGANIZATION.—The term “tribal  
9 organization” has the meaning given the term in  
10 section 4 of the Indian Self-Determination and Edu-  
11 cation Assistance Act (25 U.S.C. 450b).

12 **SEC. 624. COUNCIL ON ENVIRONMENTAL QUALITY.**

13 The Chair of the Council on Environmental Quality  
14 shall—

15 (1) advise the President on implementation and  
16 development of—

17 (A) a Natural Resources Climate Change  
18 Adaptation Strategy required under section  
19 626; and

20 (B) Federal natural resource agency adap-  
21 tation plans required under section 628;

22 (2) serve as the Chair of the Natural Resources  
23 Climate Change Adaptation Panel established under  
24 section 625; and

1           (3) coordinate Federal agency strategies, plans,  
2           programs, and activities related to assisting natural  
3           resources to become more resilient and adapt to and  
4           withstand the impacts of climate change and ocean  
5           acidification.

6 **SEC. 625. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
7 **TATION PANEL.**

8           (a) ESTABLISHMENT.—Not later than 90 days after  
9           the date of the enactment of this Act, the President shall  
10          establish a Natural Resources Climate Change Adaptation  
11          Panel, consisting of—

12                 (1) the head of the respective Federal agency or  
13          department of—

14                         (A) the Department of Commerce, acting  
15                         through the Administrator of NOAA;

16                         (B) the Department of the Interior;

17                         (C) the Environmental Protection Agency;

18                         (D) the Department of Agriculture; and

19                         (E) the Army Corps of Engineers; and

20                 (2) the Chair of the Council on Environmental  
21          Quality; and

22                 (3) the heads of such other Federal agencies or  
23          departments with jurisdiction over natural resources  
24          of the United States as the President considers ap-  
25          propriate.



1 (b) FUNCTIONS.—The Panel shall serve as a forum  
2 for interagency consultation on and the coordination of the  
3 development and implementation of a national Natural  
4 Resources Climate Change Adaptation Strategy required  
5 under section 626.

6 (c) CHAIR.—The Chair of the Council on Environ-  
7 mental Quality shall serve as the Chair of the Panel.

8 **SEC. 626. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
9 **TATION STRATEGY.**

10 (a) IN GENERAL.—Not later than 2 years after the  
11 date of the enactment of this Act, the President, through  
12 the Natural Resources Climate Change Adaptation Panel  
13 established under section 625, shall develop a Natural Re-  
14 sources Climate Change Adaptation Strategy for assisting  
15 natural resources in becoming more resilient and adapting  
16 to the impacts of climate change and ocean acidification.

17 (b) ADMINISTRATION.—In developing and revising a  
18 Natural Resources Climate Change Adaptation Strategy,  
19 the Natural Resources Climate Change Adaptation Panel  
20 shall—

21 (1) base the strategy on the best available  
22 science, as identified by the Climate Change Adapta-  
23 tion Science and Information Program established  
24 under section 627;

1           (2) develop the strategy in cooperation with  
2 States, United States territories, and Indian tribes;

3           (3) coordinate with other Federal agencies as  
4 appropriate;

5           (4) consult with local governments, conservation  
6 organizations, scientists, and other interested stake-  
7 holders;

8           (5) provide public notice and opportunity for  
9 comment; and

10          (6) review and revise the Strategy every 5 years  
11 to incorporate new information regarding the im-  
12 pacts of climate change and ocean acidification on  
13 natural resources and advances in the development  
14 of strategies for becoming more resilient and adapt-  
15 ing to those impacts.

16          (c) CONTENTS.—The National Resources Adaptation  
17 Strategy shall include—

18           (1) an assessment, at an appropriate geo-  
19 graphic scale, of the nature and probability of pre-  
20 dicted short-term, medium-term, and long-term im-  
21 pacts of climate change and ocean acidification on  
22 natural resources, including cumulative and syner-  
23 gistic effects;

24           (2) a description of current research, observa-  
25 tion, and monitoring activities related to the impacts

1 of climate change and ocean acidification on natural  
2 resources, as well as identification of research and  
3 data needs and priorities;

4 (3) identification of natural resources that are  
5 likely to be adversely affected by climate change and  
6 ocean acidification and have a need for conservation;

7 (4) specific protocols for integrating climate  
8 change and ocean acidification adaptation strategies  
9 and activities into the conservation and management  
10 of natural resources by Federal agencies to ensure  
11 consistency across agency jurisdictions and re-  
12 sources;

13 (5) specific actions that Federal agencies should  
14 take to assist natural resources in adapting to and  
15 withstanding the impacts of climate change and  
16 ocean acidification, including a timeline to imple-  
17 ment those actions;

18 (6) specific mechanisms for ensuring commu-  
19 nication and coordination among Federal agencies,  
20 and between Federal agencies and State natural re-  
21 source agencies, United States territories, and In-  
22 dian tribes; and

23 (7) a process for guiding the development of de-  
24 tailed agency and department specific adaptation  
25 plans required under section 628 to address the im-

1       pacts of climate change and ocean acidification on  
2       the natural resources in the jurisdiction of each  
3       agency.

4       (d) IMPLEMENTATION.—Consistent with their au-  
5       thorities under other laws, each Federal agency with rep-  
6       resentation on the National Resources Climate Change  
7       Adaptation Panel shall integrate the elements of the strat-  
8       egy into agency plans, programs, and activities related to  
9       the conservation and management of natural resources.

10   **SEC. 627. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
11                   **TATION SCIENCE AND INFORMATION PRO-**  
12                   **GRAM.**

13       (a) ESTABLISHMENT.—Not later than 90 days after  
14       the date of the enactment of this Act, the Secretary of  
15       Commerce, acting through the Administrator of the  
16       NOAA, and the Secretary of the Interior, acting through  
17       the Director of the United States Geological Survey, shall  
18       establish a Natural Resources Climate Change Adaptation  
19       Science and Information Program. The program shall be  
20       implemented through the National Global Warming and  
21       Wildlife Science Center within the United States Geologi-  
22       cal Survey and through counterpart programs established  
23       by the Secretary of Commerce within the National Oceanic  
24       and Atmospheric Administration.

1 (b) FUNCTIONS.—The National Resources Climate  
2 Change Adaptation Science and Information Program  
3 shall—

4 (1) provide technical assistance to Federal  
5 agencies, State and local governments, and tribal or-  
6 ganizations in their efforts to assess the impacts of  
7 climate change and ocean acidification on natural re-  
8 sources;

9 (2) conduct and sponsor research and provide  
10 Federal agencies, State and local governments, and  
11 tribal organizations with research products, decision  
12 and monitoring tools and information, to develop  
13 strategies for assisting natural resources to become  
14 more resilient and adapt to and withstand the im-  
15 pacts of climate change and ocean acidification; and  
16 (3) assist Federal agencies in the development  
17 of detailed agency and department specific adapta-  
18 tion plans required under section 628.

19 (c) SURVEY.—Not later than 180 days after the date  
20 of enactment of this Act and every 5 years thereafter, the  
21 Secretary of Commerce and the Secretary of the Interior  
22 shall undertake a climate change and ocean acidification  
23 impact survey that—

1           (1) identifies natural resources considered likely  
2           to be adversely affected by climate change and ocean  
3           acidification;

4           (2) includes baseline monitoring and ongoing  
5           trend analysis;

6           (3) identifies and prioritizes needed monitoring  
7           and research that is of greatest relevance to the on-  
8           going needs of natural resource managers to address  
9           the impacts of climate change and ocean acidifica-  
10          tion; and

11          (4) identifies decision tools necessary to develop  
12          strategies for assisting natural resources to become  
13          more resilient and adapt to and withstand the im-  
14          pacts of climate change and ocean acidification.

15          (d) SCIENCE ADVISORY BOARD.—

16           (1) ESTABLISHMENT.—Not later than 180 days  
17           after the date of enactment of this Act, the Sec-  
18           retary of Commerce and the Secretary of the Inte-  
19           rior shall establish and appoint the members of a  
20           Science Advisory Board, to be comprised of not  
21           fewer than 10 and not more than 20 members—

22           (A) who have expertise in fish, wildlife,  
23           plant, aquatic, and coastal and marine biology,  
24           ecology, climate change, ocean acidification, and  
25           other relevant scientific disciplines;

1 (B) who represent a balanced membership  
2 among Federal, State, and local representatives,  
3 universities, and conservation organizations;  
4 and

5 (C) at least  $\frac{1}{2}$  of whom are recommended  
6 by the President of the National Academy of  
7 Sciences.

8 (2) DUTIES.—The Science Advisory Board  
9 shall—

10 (A) advise the Natural Resources Climate  
11 Change Adaptation Science and Information  
12 Program established under subsection (a) on  
13 the state-of-the-science regarding the impacts of  
14 climate change and ocean acidification on nat-  
15 ural resources and scientific strategies and  
16 mechanisms for adaptation; and

17 (B) identify and recommend priorities for  
18 ongoing research needs on such issues.

19 (3) COLLABORATION.—The Science Advisory  
20 Board shall collaborate with other climate change  
21 and ecosystem research entities in other Federal  
22 agencies and departments.

23 (4) AVAILABILITY TO THE PUBLIC.—The advice  
24 and recommendations of the Science Advisory Board  
25 shall be made available to the public.

1 **SEC. 628. FEDERAL NATURAL RESOURCE AGENCY ADAPTA-**  
2 **TION PLANS.**

3 (a) DEVELOPMENT.—Not later than 1 year after the  
4 date of the development of a Natural Resources Climate  
5 Change Adaptation Strategy under section 626, each Fed-  
6 eral agency with representation on the Natural Resources  
7 Climate Change Adaptation Panel established under sec-  
8 tion 625 shall—

9 (1) complete an agency adaptation plan, con-  
10 sistent with the Natural Resources Climate Change  
11 Adaptation Strategy under section 626 and the Nat-  
12 ural Resources Climate Change Adaptation Policy  
13 under section 622, detailing the agency's current  
14 and projected efforts to address the potential im-  
15 pacts of climate change and ocean acidification on  
16 natural resources within the agency's jurisdiction  
17 and necessary additional actions, including a  
18 timeline for implementation of those actions;

19 (2) provide opportunities for public review and  
20 comment on the agency adaptation plan; and

21 (3) submit such plan to the President for ap-  
22 proval.

23 (b) SUBMISSION TO CONGRESS.—Not later than 30  
24 days after the date of approval by the President, each Fed-  
25 eral agency with representation on the Natural Resources  
26 Climate Change Adaptation Panel under section 625 shall



1 submit to the Committee on Energy and Commerce of the  
2 House of Representatives, the Committee on Environment  
3 and Public Works of the Senate, and the committees of  
4 the House of Representatives and the Senate with prin-  
5 cipal jurisdiction over the relevant agency an agency adap-  
6 tation plan described in subsection (a) along with a sched-  
7 ule for the implementation of such plan.

8 (c) REQUIREMENTS.—Each agency adaptation plan  
9 shall include prioritized goals and measures and a sched-  
10 ule for implementation—

11 (1) to assess the current and future impacts of  
12 climate change and ocean acidification on natural re-  
13 sources within the agency’s jurisdiction, including  
14 cumulative and synergistic effects, and to identify  
15 and monitor those natural resources that are likely  
16 to be adversely affected and that have need for con-  
17 servation;

18 (2) to assess the agency’s efforts to address the  
19 current and future impacts of climate change and  
20 ocean acidification on natural resources within the  
21 scope of the agency’s jurisdiction and to develop and  
22 implement strategies to assist such resources in be-  
23 coming more resilient and adapting to and with-  
24 standing those impacts, including—

1 (A) the protection, maintenance, and res-  
2 toration of habitats and ecosystems;

3 (B) the establishment of habitat linkages  
4 and corridors;

5 (C) the restoration and conservation of ec-  
6 ological processes;

7 (D) the protection of a broad diversity of  
8 native species across their range; and

9 (E) the protection of wildlife health, recog-  
10 nizing that climate can alter the distribution  
11 and ecology of parasites, pathogens, and vec-  
12 tors.

13 (3) to integrate such adaptation strategies into  
14 agency plans, programs, activities, and actions re-  
15 lated to the conservation and management of nat-  
16 ural resources and to establish new plans, programs,  
17 activities, and actions as necessary;

18 (4) including a description of current and pro-  
19 posed mechanisms to enhance cooperation and co-  
20 ordination on natural resources adaptation efforts  
21 with other Federal agencies, State and local govern-  
22 ments, and tribal organizations and nongovern-  
23 mental stakeholders;

24 (5) to develop specific written guidance to re-  
25 source managers to—

1 (A) explain how managers are expected to  
2 address the effects of climate change and ocean  
3 acidification;

4 (B) identify how managers are to obtain  
5 any site-specific information that may be nec-  
6 essary; and

7 (C) to reflect best practices shared among  
8 relevant agencies, while also recognizing the  
9 unique missions, objectives, and responsibilities  
10 of each agency; and

11 (6) to identify and assess data and information  
12 gaps necessary to develop natural resource adapta-  
13 tion plans and strategies.

14 (d) IMPLEMENTATION.—Upon approval by the Presi-  
15 dent, each Federal agency shall implement their agency  
16 plan through existing and new policies, programs, activi-  
17 ties, and actions to the extent not inconsistent with exist-  
18 ing authority. To the maximum extent practicable and  
19 consistent with applicable law, implementation shall be  
20 conducted in a way that protects, maintains, and restores  
21 the resilience of natural resources under the jurisdiction  
22 of other agencies and their ability to adapt and withstand  
23 the impacts of climate change and ocean acidification.

24 (e) REVISION AND REVIEW.—Not less than every 5  
25 years, each Federal agency adaptation plan shall be re-

1 viewed and revised to incorporate the best available science  
2 and other information regarding the impacts of climate  
3 change and ocean acidification on natural resources.

4 **SEC. 629. STATE NATURAL RESOURCES ADAPTATION**  
5 **PLANS.**

6 (a) REQUIREMENT.—In order to be eligible for an al-  
7 location of allowances under section 630, not later than  
8 1 year after the development of a Natural Resources Cli-  
9 mate Change Adaptation Strategy required under section  
10 626 each State shall prepare a State natural resources ad-  
11 aptation plan detailing the State's current and projected  
12 efforts to address the potential impacts of climate change  
13 and ocean acidification on natural resources and coastal  
14 areas within the State's jurisdiction.

15 (b) REVIEW OR APPROVAL.—Each State plan shall  
16 be reviewed and approved by the Secretary of the Interior  
17 and, as applicable, the Secretary of Commerce, to be con-  
18 sistent with a national Natural Resources Climate Change  
19 Adaptation Strategy required under section 626 and the  
20 Federal natural resource agency adaptation plans under  
21 section 628.

22 (1) Within 10 days after transmittal of a plan,  
23 revision to a plan, or resubmittal of a plan by a  
24 State, the Secretary of the Interior and the Sec-

1       retary of Commerce shall commence a review of the  
2       strategy, revised plan, or revision, respectively.

3           (2) Within 180 days after transmittal of a plan,  
4       or a revision to a plan, the Secretary of the Interior  
5       and the Secretary of Commerce shall approve or dis-  
6       approve the plan by written notice.

7           (3) Within 90 days after transmittal of a resub-  
8       mitted plan, as a result of disapproval by written no-  
9       tice, the Secretary of the Interior and the Secretary  
10      of Commerce shall approve or disapprove the plan by  
11      written notice.

12      (c) CONTENTS.—A State natural resources adapta-  
13      tion plan shall—

14           (1) include a strategy for addressing the im-  
15      pacts of climate change and ocean acidification on  
16      fish, wildlife, plants, habitats, ecosystems, wildlife  
17      health, and ecological processes that—

18           (A) describes the impacts of climate  
19      change and ocean acidification on the diversity  
20      and health of the fish, wildlife and plant popu-  
21      lations, habitats, ecosystems, and associated ec-  
22      ological processes;

23           (B) establishes programs for monitoring  
24      the impacts of climate change on fish, wildlife,

1 and plant populations, habitats, ecosystems,  
2 and associated ecological processes;

3 (C) describes and prioritizes proposed con-  
4 servation actions to assist fish, wildlife, plant  
5 populations, habitats, ecosystems, and associ-  
6 ated ecological processes in becoming more re-  
7 siliant and adapting to those impacts;

8 (D) includes strategies, specific conserva-  
9 tion actions, and a time frame for implementing  
10 conservation actions for fish, wildlife, and plant  
11 populations, habitats, ecosystems, and associ-  
12 ated ecological processes;

13 (E) establishes methods for assessing the  
14 effectiveness of conservation actions taken to  
15 assist fish, wildlife, and plant populations, habi-  
16 tats, ecosystems, and associated ecological proc-  
17 esses in becoming more resilient and adapting  
18 to the impacts of climate changes and ocean  
19 acidification and for updating those actions to  
20 respond appropriately to new information or  
21 changing conditions;

22 (F) is incorporated into a revision of the  
23 comprehensive wildlife conservation strategy of  
24 a State—

1 (i) that has been submitted to the  
2 United States Fish and Wildlife Service;  
3 and

4 (ii) that has been approved by the  
5 Service or on which a decision on approval  
6 is pending; and

7 (G) is developed—

8 (i) with the participation of the State  
9 fish and wildlife agency, the State coastal  
10 agency, the State agency responsible for  
11 administration of Land and Water Con-  
12 servation Fund grants, the State Forest  
13 Legacy program coordinator, and other  
14 State agencies considered appropriate by  
15 the Governor of such State; and

16 (ii) in coordination with the Secretary  
17 of the Interior, and where applicable, the  
18 Secretary of Commerce; and

19 (2) include, in the case of a coastal State, a  
20 strategy for addressing the impacts of climate  
21 change and ocean acidification on the coastal zone  
22 that—

23 (A) identifies natural resources that are  
24 likely to be impacted by climate change and  
25 ocean acidification and describes those impacts;

- 1 (B) identifies and prioritizes continuing re-  
2 search and data collection needed to address  
3 those impacts including—
- 4 (i) acquisition of high resolution  
5 coastal elevation and nearshore bathymetry  
6 data;
  - 7 (ii) historic shoreline position maps,  
8 erosion rates, and inventories of shoreline  
9 features and structures;
  - 10 (iii) measures and models of relative  
11 rates of sea level rise or lake level changes,  
12 including effects on flooding, storm surge,  
13 inundation, and coastal geological pro-  
14 cesses;
  - 15 (iv) habitat loss, including projected  
16 losses of coastal wetlands and potentials  
17 for inland migration of natural shoreline  
18 habitats;
  - 19 (v) coastal species and ecosystem mi-  
20 grations, and changes in species population  
21 dynamics;
  - 22 (vi) changes in storm frequency, in-  
23 tensity, or rainfall patterns;
  - 24 (vii) saltwater intrusion into coastal  
25 rivers and aquifers;



1 (viii) changes in chemical or physical  
2 characteristics of marine and estuarine  
3 systems;

4 (ix) increased harmful algal blooms;  
5 and

6 (x) spread of invasive species;

7 (C) identifies and prioritizes adaptation  
8 strategies to assist natural resources to become  
9 more resilient and to adapt to and withstand  
10 and minimize the impacts of climate change  
11 and ocean acidification, including—

12 (i) protection, maintenance, and res-  
13 toration of ecologically important coastal  
14 lands, coastal and ocean ecosystems, and  
15 species biodiversity and the establishment  
16 of habitat buffer zones, migration cor-  
17 ridors, and climate refugia; and

18 (ii) improved planning, siting policies,  
19 and hazard mitigation strategies;

20 (D) establishes programs for the long-term  
21 monitoring of the impacts of climate change  
22 and ocean acidification on the coastal zone and  
23 to assess and adjust, when necessary, such  
24 adaptive management strategies;

1           (E) establishes performance measures for  
2           assessing the effectiveness of adaptation strate-  
3           gies intended to improve resilience and the abil-  
4           ity of natural resources in the coastal zone to  
5           adapt to and withstand the impacts of climate  
6           change and ocean acidification and of adapta-  
7           tion strategies intended to minimize those im-  
8           pacts on the coastal zone and to update those  
9           strategies to respond to new information or  
10          changing conditions; and

11          (F) is developed with the participation of  
12          the State coastal agency and other appropriate  
13          State agencies and in coordination with the  
14          Secretary of Commerce and other appropriate  
15          Federal agencies.

16          (d) PUBLIC INPUT.—States shall provide for solicita-  
17          tion and consideration of public and independent scientific  
18          input in the development of their plans.

19          (e) COORDINATION WITH OTHER PLANS.—The State  
20          plan shall take into consideration research and informa-  
21          tion contained in, and coordinate with and integrate the  
22          goals and measures identified in, as appropriate, other  
23          natural resources conservation strategies, including—

24                (1) the national fish habitat action plan;

- 1           (2) plans under the North American Wetlands  
2           Conservation Act (16 U.S.C. 4401 et seq.);
- 3           (3) the Federal, State, and local partnership  
4           known as “Partners in Flight”;
- 5           (4) federally approved coastal zone management  
6           plans under the Coastal Zone Management Act of  
7           1972 (16 U.S.C. 1451 et seq.);
- 8           (5) federally approved regional fishery manage-  
9           ment plans and habitat conservation activities  
10          under the Magnuson-Stevens Fishery Conservation  
11          and Management Act (16 U.S.C. 1801 et seq.);
- 12          (6) the national coral reef action plan;
- 13          (7) recovery plans for threatened species and  
14          endangered species under section 4(f) of the Endan-  
15          gered Species Act of 1973 (16 U.S.C. 1533(f));
- 16          (8) habitat conservation plans under section 10  
17          of that Act (16 U.S.C. 1539);
- 18          (9) other Federal and State plans for imperiled  
19          species;
- 20          (10) State hazard mitigation plans; and
- 21          (11) other State-based strategies that com-  
22          prehensively implement adaptation activities to re-  
23          mediate the effects of climate change and ocean  
24          acidification on fish, wildlife, plants, and other nat-  
25          ural resources.

1 (f) UPDATING.—Each State plan shall be updated  
2 not less than every 5 years.

3 (g) FUNDING.—

4 (1) IN GENERAL.—Funds allocated to States  
5 under section 630 shall be used only for activities  
6 that are consistent with a State natural resources  
7 adaptation plan that has been approved by the Sec-  
8 retaries of Interior and Commerce.

9 (2) INITIAL.—Until the earlier of the date that  
10 is 3 years after the date of the enactment of this Act  
11 or the date on which a State receives approval for  
12 the State strategy, a State shall be eligible to receive  
13 funding under section 630 for adaptation activities  
14 that are—

15 (A) consistent with the comprehensive  
16 wildlife strategy of the State and, where appro-  
17 priate, other natural resources conservation  
18 strategies; and

19 (B) in accordance with a workplan devel-  
20 oped in coordination with—

21 (i) the Secretary of the Interior; and

22 (ii) the Secretary of Commerce, for  
23 any coastal State subject to the condition  
24 that coordination with the Secretary of  
25 Commerce shall be required only for those

1 portions of the strategy relating to activi-  
2 ties affecting the coastal zone.

3 (3) PENDING APPROVAL.—During the period  
4 for which approval by the applicable Secretary of a  
5 State plan is pending, the State may continue receiv-  
6 ing funds under section 630 pursuant to the  
7 workplan described in paragraph (2)(B).

8 **SEC. 630. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
9 **TATION FUND.**

10 (a) AVAILABILITY OF AMOUNTS.—All amounts de-  
11 posited into the Natural Resources Climate Change Adap-  
12 tation Fund shall be available without further appropria-  
13 tion or fiscal year limitation.

14 (b) ALLOCATIONS.—

15 (1) STATES.—40 percent of the amounts in the  
16 Fund shall provided to States to carry out adapta-  
17 tion activities in accordance with a State natural re-  
18 sources adaptation plans approved under section  
19 629. Specifically—

20 (A) 32.5 percent shall be available to State  
21 wildlife agencies through the Wildlife Conserva-  
22 tion and Restoration Account established under  
23 section 3(a)(2) of the Pittman-Robertson Wild-  
24 life Restoration Act (16 U.S.C. 669b(a)(2));  
25 and

1 (B) 7.5 percent shall be available to State  
2 coastal agencies pursuant to the formula estab-  
3 lished by the Secretary of Commerce under sec-  
4 tion 306(c) of the Coastal Management Act of  
5 1972 (16 U.S.C. 1455(c)).

6 (2) DEPARTMENT OF THE INTERIOR.—Of the  
7 amounts made available each fiscal year to carry out  
8 this subtitle—

9 (A) 17 percent shall be allocated to the  
10 Secretary of the Interior for use in funding ad-  
11 aptation activities carried out—

12 (i) under endangered species, migra-  
13 tory bird, and other fish and wildlife pro-  
14 grams administered by the United States  
15 Fish and Wildlife Service;

16 (ii) on wildlife refuges and other pub-  
17 lic land under the jurisdiction of the  
18 United States Fish and Wildlife Service,  
19 the Bureau of Land Management, or the  
20 National Park Service; or

21 (iii) within Federal water managed by  
22 the Bureau of Reclamation;

23 (B) 5 percent shall be allocated to the Sec-  
24 retary of the Interior for adaptation activities

1 carried out under cooperative grant programs,  
2 including—

3 (i) the cooperative endangered species  
4 conservation fund authorized under section  
5 6 of the Endangered Species Act of 1973  
6 (16 U.S.C. 1535);

7 (ii) programs under the North Amer-  
8 ican Wetlands Conservation Act (16  
9 U.S.C. 4401 et seq.);

10 (iii) the multinational species con-  
11 servation fund established under the head-  
12 ing “MULTINATIONAL SPECIES CON-  
13 SERVATION FUND” of title I of the De-  
14 partment of the Interior and Related  
15 Agencies Appropriations Act, 1999 (16  
16 U.S.C. 4246);

17 (iv) the Neotropical Migratory Bird  
18 Conservation Fund established by section  
19 9(a) of the Neotropical Migratory Bird  
20 Conservation Act (16 U.S.C. 6108(a));

21 (v) the Coastal Program of the United  
22 States Fish and Wildlife Service;

23 (vi) the National Fish Habitat Action  
24 Plan;

1 (vii) the Partners for Fish and Wild-  
2 life Program;

3 (viii) the Landowner Incentive Pro-  
4 gram;

5 (ix) the Wildlife Without Borders Pro-  
6 gram of the United States Fish and Wild-  
7 life Service; and

8 (x) the Park Flight Migratory Bird  
9 Program of the National Park Service; and

10 (C) 1 percent shall be allocated to the Sec-  
11 retary of the Interior to provide financial assist-  
12 ance to Indian tribes to carry out adaptation  
13 activities through the Tribal Wildlife Grants  
14 Program of the United States Fish and Wildlife  
15 Service.

16 (3) LAND AND WATER CONSERVATION FUND.—

17 (A) DEPOSITS.—

18 (i) IN GENERAL.—Of the amounts  
19 made available for each fiscal year to carry  
20 out this subtitle 12 percent shall be depos-  
21 ited into the Land and Water Conservation  
22 Fund established under section 2 of the  
23 Land and Water Conservation Fund Act of  
24 1965 (16 U.S.C. 460l–5).



1                   (ii) USE OF DEPOSITS.—Deposits into  
2                   the Land and Water Conservation Fund  
3                   under this paragraph shall—

4                   (I) be supplemental to authoriza-  
5                   tions provided under section 3 of the  
6                   Land and Water Conservation Fund  
7                   Act of 1965 (16 U.S.C. 4601–6) which  
8                   shall remain available for nonadapta-  
9                   tion needs; and

10                  (II) be available for expenditure  
11                  to carry out this subtitle without fur-  
12                  ther appropriation or fiscal year limi-  
13                  tation.

14                  (B) ALLOCATIONS.—Of the amounts de-  
15                  posited under this paragraph into the Land and  
16                  Water Conservation Fund—

17                  (i) 1/6 shall be allocated to the Sec-  
18                  retary of the Interior and made available  
19                  on a competitive basis to carry out adapta-  
20                  tion activities through the acquisition of  
21                  land and interests in land under section 6  
22                  of the Land and Water Conservation Fund  
23                  Act of 1965 (16 U.S.C. 4601–8)—

1 (I) to States in accordance with  
2 their natural resources adaptation  
3 plans, and to Indian tribes;

4 (II) notwithstanding section 5 of  
5 that Act (16 U.S.C. 4601–7); and

6 (III) in addition to any funds  
7 provided pursuant to annual appro-  
8 priations Acts, the Energy Policy Act  
9 of 2005 (42 U.S.C. 15801 et seq.), or  
10 any other authorization for non-  
11 adaptation needs;

12 (ii) 1/3 shall be allocated to the Sec-  
13 retary of the Interior to carry out adapta-  
14 tion activities through the acquisition of  
15 lands and interests in land under section 7  
16 of the Land and Water Conservation Fund  
17 Act of 1965 (16 U.S.C. 4601–9);

18 (iii) 1/6 shall be allocated to the Sec-  
19 retary of Agriculture and made available to  
20 the States to carry out adaptation activi-  
21 ties through the acquisition of land and in-  
22 terests in land under section 7 of the For-  
23 est Legacy Program under the Cooperative  
24 Forestry Assistance Act of 1978 (16  
25 U.S.C. 2103c); and

1 (iv) 1/3 shall be allocated to the Sec-  
2 retary of Agriculture to carry out adapta-  
3 tion activities through the acquisition of  
4 land and interests in land under section 7  
5 of the Land and Water Conservation Fund  
6 Act of 1965 (16 U.S.C. 460l-9).

7 (C) EXPENDITURE OF FUNDS.—In allo-  
8 cating funds under subparagraph (B), the Sec-  
9 retary of the Interior and the Secretary of Agri-  
10 culture shall take into consideration factors in-  
11 cluding—

12 (i) the availability of non-Federal con-  
13 tributions from State, local, or private  
14 sources;

15 (ii) opportunities to protect wildlife  
16 corridors or otherwise to link or consoli-  
17 date fragmented habitats;

18 (iii) opportunities to reduce the risk of  
19 catastrophic wildfires, extreme flooding, or  
20 other climate-related events that are harm-  
21 ful to fish and wildlife and people; and

22 (iv) the potential for conservation of  
23 species or habitat types at serious risk due  
24 to climate change, ocean acidification, and  
25 other stressors.

1           (4) FOREST SERVICE.—Of the amounts made  
2 available each fiscal year to carry out this subtitle,  
3 5 percent shall be allocated to the Secretary of Agri-  
4 culture for use in funding adaptation activities car-  
5 ried out on national forests and national grasslands  
6 under the jurisdiction of the Forest Service, or pur-  
7 suant to the cooperative Wings Across the Americas  
8 Program.

9           (5) ENVIRONMENTAL PROTECTION AGENCY.—  
10 Of the amounts made available each fiscal year to  
11 carry out this subtitle, 5 percent shall be allocated  
12 to the Administrator of the Environmental Protec-  
13 tion Agency for use in adaptation activities restoring  
14 and protecting—

15           (A) large-scale freshwater aquatic eco-  
16 systems, such as the Everglades, the Great  
17 Lakes, Flathead Lake, the Missouri River, the  
18 Mississippi River, the Colorado River, the Sac-  
19 ramento-San Joaquin Rivers, the Ohio River,  
20 the Columbia-Snake River System, the Apa-  
21 lachicola, Chattahoochee, and Flint River Sys-  
22 tem, the Connecticut River, and the Yellowstone  
23 River;

24           (B) large-scale estuarine ecosystems, such  
25 as Chesapeake Bay, Long Island Sound, Puget

1 Sound, the Mississippi River Delta, the San  
2 Francisco Bay Delta, Narragansett Bay, and  
3 Albemarle-Pamlico Sound; and

4 (C) freshwater and estuarine ecosystems,  
5 watersheds, and basins identified as priorities  
6 by the Administrator, working in cooperation  
7 with other Federal agencies, States, local gov-  
8 ernments, scientists, and other conservation  
9 partners.

10 (6) CORPS OF ENGINEERS.—Of the amounts  
11 made available annually to carry out this subtitle,  
12 7.5 percent shall be available to the Secretary of the  
13 Army for use by the Corps of Engineers to carry out  
14 adaptation activities restoring—

15 (A) large-scale freshwater aquatic eco-  
16 systems, such as the ecosystems described in  
17 paragraph (5)(A);

18 (B) large-scale estuarine ecosystems, such  
19 as the ecosystems described in paragraph  
20 (5)(B);

21 (C) freshwater and estuarine ecosystems,  
22 watersheds, and basins identified as priorities  
23 by the Corps of Engineers, working in coopera-  
24 tion with other Federal agencies, States, local

1 governments, scientists, and other conservation  
2 partners; and

3 (D) habitats and ecosystems through the  
4 implementation of estuary habitat restoration  
5 projects authorized by the Estuary Restoration  
6 Act of 2000 (33 U.S.C. 2901 et seq.), project  
7 modifications for improvement of the environ-  
8 ment, aquatic restoration and protection  
9 projects authorized by section 206 of the Water  
10 Resources Development Act of 1996 (33 U.S.C.  
11 2330), and other appropriate programs and ac-  
12 tivities.

13 (7) DEPARTMENT OF COMMERCE.—Of the  
14 amounts made available each fiscal year to carry out  
15 this subtitle, 7.5 percent shall be allocated to the  
16 Secretary of Commerce for use in funding adapta-  
17 tion activities to protect, maintain, and restore  
18 coastal, estuarine, and marine resources, habitats,  
19 and ecosystems, including such activities carried out  
20 under—

21 (A) the coastal and estuarine land con-  
22 servation program;

23 (B) the community-based restoration pro-  
24 gram;

1 (C) the Coastal Zone Management Act of  
2 1972 (16 U.S.C. 1451 et seq.), that are specifi-  
3 cally designed to strengthen the ability of coast-  
4 al, estuarine, and marine resources, habitats,  
5 and ecosystems to adapt to and withstand the  
6 impacts of climate change and ocean acidifica-  
7 tion;

8 (D) the Open Rivers Initiative;

9 (E) the Magnuson-Stevens Fishery Con-  
10 servation and Management Act (16 U.S.C.  
11 1801 et seq.);

12 (F) the Marine Mammal Protection Act of  
13 1972 (16 U.S.C. 1361 et seq.);

14 (G) the Endangered Species Act of 1973  
15 (16 U.S.C. 1531 et seq.);

16 (H) the Marine Protection, Research, and  
17 Sanctuaries Act of 1972 (33 U.S.C. 1401 et  
18 seq.); and

19 (I) the Coral Reef Conservation Act of  
20 2000 (16 U.S.C. 6401 et seq.).

21 (c) COST SHARING.—Notwithstanding any other pro-  
22 vision of law, a State or Indian tribe that receives a grant  
23 under paragraphs (1) or (2)(C) of subsection (d) shall use  
24 funds from non-Federal sources to pay 10 percent of the

1 costs of each activity carried out using amounts under the  
2 grant.

3 (d) CONSISTENCY WITH FEDERAL PLANS.—Funds  
4 made available under paragraph (2) through (7) of sub-  
5 section (d) shall be used only for adaptation activities that  
6 are consistent with the natural resources adaptation plans  
7 required to be developed by each Federal agency under  
8 section 628.

9 **TITLE VII—LOW INCOME CON-**  
10 **SUMER CLIMATE CHANGE RE-**  
11 **BATES**

12 **SEC. 701. LOW INCOME CONSUMER CLIMATE CHANGE RE-**  
13 **BATES.**

14 (a) LOW INCOME CONSUMER CLIMATE CHANGE RE-  
15 BATE PROGRAM.—

16 (1) The Administrator, or another Federal  
17 agency designated by the Administrator to carry out  
18 this section, shall formulate and administer the Low  
19 Income Consumer Climate Change Rebate Program.

20 (2) At the request of the appropriate State  
21 agency, eligible low-income households within the  
22 State shall be provided an opportunity to receive  
23 compensation, through the issuance of a monthly re-  
24 bate, for the loss in purchasing power resulting from  
25 this Act and the amendments made by this Act.



1 (b) ELIGIBILITY.—

2 (1) IN GENERAL.—Participation in the Low In-  
3 come Consumer Climate Change Rebate Program  
4 shall be limited to households that—

5 (A) the State agency determines to be par-  
6 ticipating in the supplemental nutrition assist-  
7 ance program (7 U.S.C. 2011 et seq.) or the  
8 food distribution program on Indian Reserva-  
9 tions (7 U.S.C. 2013(b));

10 (B) meet the gross income standard de-  
11 scribed in section 5(c)(2) of the Food and Nu-  
12 trition Act of 2008 (7 U.S.C. 2014(c)(2)), in-  
13 cluding households that include an elderly or  
14 disabled member, and the financial resources  
15 limit in effect in the State for such households  
16 under the Food and Nutrition Act of 2008 (7  
17 U.S.C. 2014(g));

18 (C) consist of a single individual or a mar-  
19 ried couple who receive the subsidy described in  
20 section 1860D-14 of the Social Security Act (42  
21 U.S.C. 1395w-114); or

22 (D) consist of a single individual or a mar-  
23 ried couple who participate in the program  
24 under section XVIII of the Social Security Act  
25 and who meet the income requirements de-

1 scribed in section 1860D-14(a)(1) or (a)(2) and  
2 the resource requirements described in section  
3 1860D-14(a)(3)(D) and (a)(3)(E) of such Act.

4 (2) LIMITATION.—The Administrator shall es-  
5 tablish procedures to ensure that—

6 (A) individuals in households that qualify  
7 for the rebate under paragraph (1)(B) or (D)  
8 and that do not participate in the supplemental  
9 nutrition assistance program or Medicare are  
10 United States citizens, United States nationals,  
11 or lawfully residing immigrants; and

12 (B) households do not receive more than 1  
13 rebate per month.

14 (c) REBATE CALCULATION.—

15 (1) AMOUNT.—

16 (A) IN GENERAL.—The climate change re-  
17 bate amount shall be the average annual reduc-  
18 tion in purchasing power for low-income house-  
19 holds of a given size that results from the regu-  
20 lation of greenhouse gas emissions under this  
21 Act and any other provision of law.

22 (B) CALCULATION.—The Energy Informa-  
23 tion Administration, in consultation with other  
24 appropriate Federal agencies, shall calculate the  
25 climate change rebate amount by August 31 of

1 each year for the following calendar year using  
2 the most recent reliable data available.

3 (2) REBATE CALCULATION.—

4 (A) DISTRIBUTION.—For each calendar  
5 year, the Energy Information Administration  
6 shall distribute the aggregate value of emission  
7 allowances available for use under the Low In-  
8 come Consumer Climate Change Rebate Pro-  
9 gram among all eligible United States house-  
10 holds, based on—

11 (i) households' share of total con-  
12 sumption by all households;

13 (ii) the carbon intensity (and covered-  
14 emissions intensity) of households' con-  
15 sumption; and

16 (iii) the share of households' con-  
17 sumption that is not financed by Federal  
18 benefits subject to a cost of living adjust-  
19 ment.

20 (B) CLIMATE CHANGE REBATE.—

21 (i) IN GENERAL.—Except as provided  
22 in clause (ii), the climate change rebate  
23 amount shall be equal to the arithmetic  
24 mean value of the amount allocated under  
25 paragraph (1) to households of a specified

1 household size in the bottom income quin-  
2 tile.

3 (ii) EXCEPTION.—If the amount avail-  
4 able in the Low Income Consumer Climate  
5 Change Rebate Fund is not sufficient in  
6 any year to allow distribution of the full  
7 rebate as calculated under this paragraph,  
8 the Energy Information Administration  
9 shall reduce each eligible household's re-  
10 bate pro rata.

11 (C) EMISSION ALLOWANCES.—For pur-  
12 poses of this section, the aggregate value of the  
13 emission allowances in any calendar year shall  
14 be equal to the projected total market value of  
15 the emission allowances retired in that year as  
16 a result of the regulation of greenhouse gas  
17 emissions under this Act and any other provi-  
18 sion of law, as estimated by the Environmental  
19 Protection Agency.

20 (D) INCOME QUINTILES.—Income quintiles  
21 shall be determined by ranking households ac-  
22 cording to income adjusted for household size,  
23 and shall be constructed so that each quintile  
24 contains an equal number of people.

1           (E) HOUSEHOLD SIZE.—The climate  
2 change rebate amount shall be calculated for  
3 each of the household sizes of 5 or fewer mem-  
4 bers.

5 (d) MONTHLY REBATE AMOUNT.—

6           (1) MAXIMUM MONTHLY REBATE.—The max-  
7 imum monthly rebate under this section for each  
8 household size shall be equal to the annual climate  
9 change rebate amount calculated under subsection  
10 (c) for that household size, divided by 12 and round-  
11 ed to the nearest whole dollar amount.

12           (2) HOUSEHOLD SIZES.—Households shall re-  
13 ceive a rebate based on the number of individuals in  
14 the household, except that households of five or  
15 more members shall receive the same rebate amount  
16 based on calculations under subsection (c) for house-  
17 holds with five or more members.

18           (3) GROSS INCOME.—

19           (A) Eligible households shall receive a  
20 monthly rebate based on the gross income of  
21 the household.

22           (B) A household with a gross income that  
23 is less than or equal to 50 percent of the pov-  
24 erty line shall receive the maximum monthly re-  
25 bate.

1           (C) A household with a gross income that  
2 is greater than 50 percent of the poverty line  
3 and less than or equal to 130 percent of the  
4 poverty line shall receive monthly rebates in  
5 amounts established in accordance with such  
6 schedule as shall be determined by the Adminis-  
7 trator, as follows:

8           (i) For each household size, the sched-  
9 ule shall provide that the amount of the  
10 monthly rebate shall be reduced for each  
11 dollar that gross income of a household ex-  
12 ceeds 50 percent of the poverty line (re-  
13 ferred to in this subparagraph as the  
14 “phase down rate”).

15           (ii) The phase down rate shall be  
16 equal to the quotient obtained by divid-  
17 ing—

18                   (I) the maximum monthly rebate  
19 amount; by

20                   (II) the difference between 130  
21 percent of the poverty line and 50  
22 percent of the poverty line calculated  
23 on a monthly basis for each household  
24 size.

1 (iii) The Administrator shall establish  
2 a methodology for use in establishing the  
3 phase down rate for households of 5 or  
4 more individuals.

5 (D) A household with a gross income that  
6 is greater than 130 percent of the poverty line  
7 shall not be eligible for a monthly rebate under  
8 this subsection.

9 (4) SPECIAL RULE FOR CERTAIN HOUSE-  
10 HOLDS.—Notwithstanding paragraph (3), house-  
11 holds with 1 or 2 members that include at least one  
12 elderly or disabled member shall receive the max-  
13 imum monthly rebate for the size of their household.

14 (e) DELIVERY MECHANISM.—

15 (1) MONTHLY INSTALLMENTS.—Subject to  
16 standards and an implementation schedule set by  
17 the Administrator, the State agency shall provide  
18 the rebate in monthly installments via the State's  
19 electronic benefit transfer system or direct deposit  
20 into the eligible household's designated bank ac-  
21 count.

22 (2) STANDARDS.—Such standards shall in-  
23 clude—

24 (A) defining the required level of recipient  
25 protection regarding privacy, ease of use, and

1 access to the rebate, including the prohibition of  
2 fees charged to recipients for withdrawals; and

3 (B) operating standards that provide for  
4 interoperability between States and law enforce-  
5 ment monitoring.

6 (f) ADMINISTRATION.—

7 (1) AGENCY RESPONSIBILITY.—The State agen-  
8 cy of each participating State shall assume responsi-  
9 bility for the certification of applicant households  
10 and for the issuance of rebates and the control and  
11 accountability thereof.

12 (2) ADMINISTRATIVE COSTS.—

13 (A) Subject to standards established by the  
14 Administrator, the Administrator is authorized  
15 to reimburse each State agency for a portion,  
16 as described in subparagraphs (B) and (C), of  
17 the administrative costs involved in each agen-  
18 cy's operation of the Low Income Consumer  
19 Climate Change Rebate Program.

20 (B) For the first three years of the Low  
21 Income Consumer Climate Change Rebate Pro-  
22 gram, a State agency shall be reimbursed for—

23 (i) 75 percent of the administrative  
24 costs of determining eligibility for and de-  
25 livering the climate change rebate; and



1                   (ii) 90 percent of any automated data  
2                   processing improvements or electronic ben-  
3                   efit transfer contract amendments nec-  
4                   essary to provide the climate change re-  
5                   bate.

6                   (C) Beginning in the fourth year of this  
7                   program, a State agency shall be reimbursed  
8                   for 50 percent of all administrative costs of the  
9                   Low Income Consumer Climate Change Rebate  
10                  Program.

11               (g) TREATMENT.—The value of the rebate provided  
12               under this section shall not be considered income or re-  
13               sources for any purpose under any Federal, State, or local  
14               laws, including laws relating to an income tax, or public  
15               assistance programs (such as health care, cash aid, child  
16               care, nutrition programs, and housing assistance), and no  
17               participating State or political subdivision thereof shall de-  
18               crease any assistance otherwise provided an individual or  
19               individuals because of the receipt of benefits under this  
20               section.

21               (h) DEFINITIONS.—In this section:

22                   (1) ELDERLY OR DISABLED MEMBER.—The  
23                   term “elderly or disabled member” includes individ-  
24                   uals who meet the definition of the term in section  
25                   3 of the Food and Nutrition Act of 2008 (7 U.S.C.

1       2012) or receive benefits under section 1860(D)-14  
2       of the Social Security Act (42 U.S.C. 1395w-114).

3           (2) ELECTRONIC BENEFIT TRANSFER.—The  
4       term “electronic benefit transfer” means a system  
5       by which household benefits defined under sub-  
6       section (d) are issued from and stored in a central  
7       databank via electronic benefit transfer cards.

8           (3) GROSS INCOME.—The term “gross income”  
9       means the gross income of a household that is deter-  
10      mined in accordance with standards and procedures  
11      established under section 5 of the Food and Nutri-  
12      tion Act of 2008 (7 U.S.C. 2014).

13          (4) HOUSEHOLD.—The term “household”  
14      means—

15           (A) subject to subparagraph (B)—

16                   (i) an individual who lives alone; or

17                   (ii) a group of individuals who live to-  
18                   gether; and

19           (B) for purposes of subparagraph (A)—

20                   (i) an individual or a group of individ-  
21                   uals who are a household under the Food  
22                   and Nutrition Act of 2008 (7 U.S.C. 2012)  
23                   shall be considered a household;

24                   (ii) a single individual or married cou-  
25                   ple that receive benefits under section

1 1860D-14 of the Social Security Act (42  
2 U.S.C. 1395w-114) shall be considered a  
3 household; and

4 (iii) notwithstanding subsection  
5 (b)(2)(B), the Administrator shall establish  
6 rules for providing the climate change re-  
7 bate in an equitable and administratively  
8 simple manner to mixed households where  
9 the group of individuals who live together  
10 includes a combination of members de-  
11 scribed in clause (i) and clause (ii), or in-  
12 cludes additional members not described in  
13 clause (i) or clause (ii).

14 (5) POVERTY LINE.—The term “poverty line”  
15 has the meaning given the term in section 673(2) of  
16 the Community Services Block Grant Act (42 U.S.C.  
17 9902(2)), including any revision required by that  
18 section.

19 (6) STATE AGENCY.—The term “State agency”  
20 means an agency of State government, including the  
21 local offices thereof, that has responsibility for ad-  
22 ministration of the 1 or more federally aided public  
23 assistance programs within the State, and in those  
24 States where such assistance programs are operated  
25 on a decentralized basis, the term shall include the

1 counterpart local agencies administering such pro-  
2 grams.

3 **SEC. 702. CLIMATE TAX REBATE THROUGH EARNED IN-**  
4 **COME CREDIT.**

5 (a) ADJUSTED CREDIT PERCENTAGE.—

6 (1) IN GENERAL.—Paragraphs (1) and (2)(A)  
7 of section 32(a) of the Internal Revenue Code of  
8 1986 are both amended by striking “credit percent-  
9 age” each place it occurs and inserting “adjusted  
10 credit percentage”.

11 (2) ADJUSTED CREDIT PERCENTAGE.—Para-  
12 graph (1) of section 32(b) of such Code is amend-  
13 ed—

14 (A) by striking subparagraphs (B) and  
15 (C), and

16 (B) by inserting after subparagraph (A)  
17 the following new subparagraph:

18 “(B) ADJUSTED CREDIT PERCENTAGE.—  
19 The term ‘adjusted credit percentage’ means  
20 the sum of—

21 “(i) the credit percentage, plus

22 “(ii) a fraction (expressed as a per-  
23 centage)—

1                   “(I) the numerator of which is  
2                   the climate change rebate amount,  
3                   and

4                   “(II) the denominator of which is  
5                   the earned income amount.”.

6                   (3) CLIMATE CHANGE REBATE AMOUNT.—Sub-  
7                   section (c) of section 32 of such Code is amended by  
8                   adding at the end the following new paragraph:

9                   “(5) CLIMATE CHANGE REBATE AMOUNT.—The  
10                  term ‘climate change rebate amount’ means the  
11                  amount determined under section 701(c) of the  
12                  \_\_\_\_\_ Act of 2008 for the calendar year in  
13                  which the taxable year begins.”.

14                  (4) COORDINATION WITH ADVANCE PAYMENTS  
15                  OF CREDIT.—Paragraph (2) of section 3507(c) of  
16                  such Code is amended in subparagraph (B)(i) by  
17                  striking “credit percentage” and inserting “adjusted  
18                  credit percentage”.

19                  (b) INDIVIDUALS WITH NO QUALIFYING CHIL-  
20                  DREN.—

21                  (1) PHASEOUT PERCENTAGE.—The third row in  
22                  the table contained in section 32(b)(1) of such Code,  
23                  as amended by subsection (a)(2), is amended by  
24                  striking “7.65” in the phaseout percentage column  
25                  and inserting “adjusted credit percentage”.

1 (2) PHASEOUT AMOUNT.—

2 (A) IN GENERAL.—The third row in the  
3 table contained in section 32(b)(2) of such Code  
4 is amended by striking “5,280” in the phaseout  
5 amount column and inserting “adjusted phase-  
6 out amount”.

7 (B) ADJUSTED PHASEOUT AMOUNT.—  
8 Paragraph (2) of section 32(b) of such Code is  
9 amended by adding at the end the following  
10 new subparagraph:

11 “(C) ADJUSTED PHASEOUT AMOUNT.—For  
12 purposes of subparagraph (A), the adjusted  
13 phaseout amount is the excess of—

14 “(i) \$17,500, over

15 “(ii) the dollar amount determined—

16 “(I) by multiplying the adjusted  
17 credit percentage by the earned in-  
18 come amount for an eligible individual  
19 with no qualifying children, and

20 “(II) dividing the product deter-  
21 mined under subclause (I) by the ad-  
22 justed phaseout percentage.

23 In the case of a joint return, clause (i) shall be  
24 applied by substituting ‘\$23,000’ for  
25 ‘\$17,500’.”.

1 (C) ADJUSTMENT FOR INFLATION.—

2 (i) IN GENERAL.—Subparagraph (B)  
3 of section 32(j)(1) of such Code is amend-  
4 ed by striking “and” at the end of clause  
5 (i), by striking the period at the end of  
6 clause (ii) and inserting “, and”, and by  
7 adding after clause (ii) the following:

8 “(iii) in the case of the \$17,500 and  
9 \$23,000 amounts in subsection (b)(2)(C),  
10 by substituting ‘calendar year 2008’ for  
11 ‘calendar year 1992’ in subparagraph (B)  
12 of such section 1.”.

13 (ii) CONFORMING AMENDMENT.—Sec-  
14 tion 32(j)(1)(B)(i) of such Code is amend-  
15 ed by inserting “except as provided in  
16 clause (iii),” before “in the case of”.

17 (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to taxable years beginning in the  
19 year in which emissions targets are enforced under this  
20 Act.

21 (d) REDUCTION OF CREDIT AMOUNT.—If the  
22 amount available in the Low Income Consumer Climate  
23 Change Rebate Fund is not sufficient in any year to cover  
24 the cost to the Federal Government of the credit estab-  
25 lished under the amendments made by this section, the

1 Secretary of the Treasury shall adjust the amount of the  
2 credit accordingly for the following year.

### 3 **TITLE VIII—MISCELLANEOUS**

#### 4 **SEC. 801. STUDY OF LEGAL FRAMEWORK FOR GEOLOGIC** 5 **SEQUESTRATION SITES.**

6 (a) ESTABLISHMENT OF TASK FORCE.—As soon as  
7 practicable, but not later than 6 months after the date  
8 of enactment of this Act, the Administrator shall establish  
9 a task force to be composed of an equal number of subject  
10 matter experts, nongovernmental organizations with ex-  
11 pertise in environmental policy, academic experts with ex-  
12 pertise in environmental law, State officials with environ-  
13 mental expertise, representatives of State Attorneys Gen-  
14 eral, and members of the private sector, to conduct a study  
15 of—

16 (1) the existing framework of Federal statutory  
17 environmental law, State statutory environmental  
18 law, and State common law that regulates or applies  
19 to geologic sequestration sites for carbon dioxide, in-  
20 cluding the ability of such laws to serve as risk man-  
21 agement tools;

22 (2) the existing statutory legal framework, in-  
23 cluding Federal and State laws, that regulates or  
24 applies to environmental harm and damage at closed



1 sites where carbon dioxide injection has been used  
2 for enhanced oil recovery;

3 (3) the statutory framework, environmental and  
4 safety considerations, implementation issues, and fi-  
5 nancial implications of potential models for Federal,  
6 State, or private sector assumption of liabilities and  
7 financial responsibilities with respect to closed geo-  
8 logic sequestration sites;

9 (4) private sector mechanisms, including insur-  
10 ance and bonding, that may be available to manage  
11 environmental risk from closed geologic sequestra-  
12 tion sites; and

13 (5) the subsurface mineral rights, water rights,  
14 or property rights issues associated with carbon se-  
15 questration.

16 (b) REPORT.—Not later than 18 months after the  
17 date of enactment of this Act, the task force established  
18 under subsection (a) shall submit to Congress a report de-  
19 scribing the results of the study conducted under sub-  
20 section (a), including any consensus recommendations of  
21 the task force.

22 **SEC. 802. BLACK CARBON.**

23 (a) ABATEMENT STUDY.—

24 (1) STUDY.—The Administrator shall conduct a  
25 study of black carbon and organic carbon emissions

1 in consultation with the National Oceanic and At-  
2 mospheric Administration, the National Aeronautics  
3 and Space Administration, the Agency for Inter-  
4 national Development, the United States Forest  
5 Service, the Department of the Interior, and other  
6 agencies. The study shall include each of the fol-  
7 lowing:

8 (A) An identification of—

9 (i) the major sources of black carbon  
10 and organic carbon emissions in the  
11 United States and throughout the world,  
12 an estimate of the quantity of current and  
13 projected future emissions, and the net cli-  
14 mate effects of the emissions from those  
15 sources;

16 (ii) the most effective and cost-effec-  
17 tive control technologies, operations, or  
18 strategies for additional domestic and  
19 international black carbon reductions, in-  
20 cluding the entire lifecycle and net climate  
21 impacts of installation or implementation  
22 of emission control technologies, oper-  
23 ations, or strategies, such as diesel particu-  
24 late filters on existing on-road and off-road  
25 engines, including consideration of emis-

1           sions from residential cookstoves, forest  
2           burning, and other agriculture-based burn-  
3           ing;

4           (iii) potential metrics quantifying the  
5           net radiative forcing, warming, or other cli-  
6           matic effects of black carbon and organic  
7           carbon emissions, which might be used to  
8           compare the climate benefits of different  
9           mitigation strategies; and

10          (iv) the health benefits associated with  
11          additional black carbon reductions.

12          (B) Recommendations of the Adminis-  
13          trator regarding—

14           (i) areas of focus for additional re-  
15           search for technologies, operations, and  
16           strategies with the highest potential to re-  
17           duce emissions of black carbon; and

18           (ii) actions the Federal Government  
19           could carry out to encourage or require ad-  
20           ditional black carbon emission reductions.

21          (2) REPORT.—Not later than 180 days after  
22          the date of enactment of this Act, the Administrator  
23          shall submit to Congress a report describing the re-  
24          sults of the study under paragraph (1).

1 (b) UNITED STATES FOREIGN AID AND ASSIST-  
2 ANCE.—

3 (1) REPORT.—Within 9 months after the date  
4 of enactment of this Act, the Secretary of State, in  
5 coordination with other applicable Federal agencies  
6 such as the Agency for International Development,  
7 the Secretary of the Treasury, and the Adminis-  
8 trator, shall issue a report to Congress on the  
9 amount, type, and direction of all present and poten-  
10 tial United States financial and related assistance to  
11 foreign nations to reduce, mitigate, and otherwise  
12 abate black carbon pollution.

13 (2) OTHER OPPORTUNITIES.—The report re-  
14 quired under paragraph (1) shall also identify oppor-  
15 tunities for foreign assistance and direction in order  
16 to—

17 (A) provide for foreign residents reliant  
18 upon residential stoves, firewood, and diesel  
19 generators alternative technologies (such as im-  
20 proved cook-stoves) that will help reduce public  
21 health and environmentally harmful impacts of  
22 black carbon pollution;

23 (B) make technological improvements to  
24 diesel engines and provide greater access to  
25 fuels that emit less or no black carbon;

1           (C) reduce unnecessary agricultural or  
2 other biomass burning where feasible alter-  
3 natives exist;

4           (D) reduce unnecessary fossil fuel burning  
5 that produces black carbon where feasible alter-  
6 natives exist; or

7           (E) reduce other sources of black carbon  
8 pollution.