

1 Title: To direct the Administrator of the Environmental Protection Agency to establish a
2 program to decrease emissions of greenhouse gases, and for other purposes.
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5 Be it enacted by the Senate and House of Representatives of the United States of
6 America in Congress assembled,

7 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

8 (a) Short Title.—This Act may be cited as the “America’s Climate Security Act of
9 2007”.

10 (b) Table of Contents.—The table of contents of this Act is as follows:

11 Sec.1.Short title; table of contents.

12 Sec.2.Findings.

13 Sec.3.Purposes.

14 Sec.4.Definitions.

15 TITLE I—CAPPING GREENHOUSE GAS EMISSIONS

16 Subtitle A—Tracking Emissions

17 Sec.1101.Purpose.

18 Sec.1102.Definitions.

19 Sec.1103.Reporting requirements.

20 Sec.1104.Data quality and verification.

21 Sec.1105.Federal greenhouse gas registry.

22 Sec.1106.Enforcement.

23 Subtitle B—Reducing Emissions

24 Sec.1201.Emission allowance account.

25 Sec.1202.Compliance obligation.

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27 TITLE II—MANAGING AND CONTAINING COSTS 28 EFFICIENTLY

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31 Sec.2102.No restriction on transactions.

32 Sec.2103.Allowance transfer system.

1 Sec.2104.Allowance tracking system.

2 Subtitle B—Banking

3 Sec.2201.Indication of calendar year.

4 Sec.2202.Effect of time.

5 Subtitle C—Borrowing

6 Sec.2301.Regulations.

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16 Sec.2406.Tracking of reversals for sequestration projects.

17 Sec.2407.Examinations.

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22 Subtitle E—International Credits

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30 Sec.2604.Powers.

31 Sec.2605.Estimate of costs to economy of limiting greenhouse gas emissions.

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6 Sec.3201.Allocation for annual auctions.

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13 targets.

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25 **SEC. 2. FINDINGS.**

- 26 Congress finds that—
- 27 (1) unchecked global warming poses a significant threat to—
- 28 (A) the national security and economy of the United States;
- 29 (B) public health and welfare in the United States;
- 30 (C) the well-being of other countries; and
- 31 (D) the global environment;

1 (2) under the United Nations Framework Convention on Climate Change, done at
2 New York on May 9, 1992, the United States is committed to stabilizing greenhouse
3 gas concentrations in the atmosphere at a level that will prevent dangerous
4 anthropogenic interference with the climate system;

5 (3) according to the Fourth Assessment Report of the Intergovernmental Panel on
6 Climate Change, stabilizing greenhouse gas concentrations in the atmosphere at a
7 level that will prevent dangerous interference with the climate system will require a
8 global effort to reduce anthropogenic greenhouse gas emissions worldwide by 50 to
9 85 percent below 2000 levels by 2050;

10 (4) prompt, decisive action is critical, since global warming pollutants can persist
11 in the atmosphere for more than a century;

12 (5) the ingenuity of the people of the United States will allow the United States to
13 become a leader in curbing global warming;

14 (6) it is possible and desirable to cap greenhouse gas emissions, from sources that
15 together account for the majority of those emissions in the United States, at the
16 current level in 2012, and to lower the cap each year between 2012 and 2050, on the
17 condition that the system includes—

18 (A) cost containment measures;

19 (B) periodic review of requirements;

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

21 (D) programs to assist low- and middle-income energy consumers; and

22 (E) programs to mitigate the impacts of any unavoidable global climate
23 change;

24 (7) Congress may need to update the emissions caps in order to account for
25 continuing scientific data and steps taken, or not taken, by foreign countries;

26 (8) accurate emission data and timely compliance with the requirements of the
27 greenhouse gas emission reduction and trading program established under this Act
28 are needed to ensure that reductions are achieved and to provide equity, efficiency,
29 and openness in the market for allowances subject to the program; and

30 (9) additional policies external to a cap-and-trade program may be required,
31 including with respect to—

32 (A) the transportation sector, where reducing greenhouse gas emissions
33 requires changes in the vehicle, in the fuels, and in consumer behavior; and

34 (B) the built environment, where reducing direct and indirect greenhouse gas
35 emissions requires changes in buildings, appliances, lighting, heating, cooling,
36 and consumer behavior.

37 SEC. 3. PURPOSES.

38 The purposes of this Act are—

39 (1) to establish the core of a federal program that will reduce United States

1 greenhouse gas emissions substantially enough between 2007 and 2050 to avert the
2 catastrophic impacts of global climate change; and

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

5 SEC. 4. DEFINITIONS.

6 In this Act:

7 (1) ADDITIONAL AND ADDITIONALITY.—The terms “additional” and
8 “additionality” mean the extent to which reductions in greenhouse gas emissions or
9 increases in sequestration are incremental to business-as-usual, measured as the
10 difference between—

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

12 (B) greenhouse gas fluxes of the offset project.

13 (2) ADMINISTRATOR.—The term “Administrator” means the Administrator of the
14 Environmental Protection Agency.

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

17 (4) BIOLOGICAL SEQUESTRATION; BIOLOGICALLY SEQUESTERED.—The terms
18 “biological sequestration” and “biologically sequestered” mean—

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

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

23 (5) CARBON DIOXIDE EQUIVALENT.—The term “carbon dioxide equivalent”
24 means, for each greenhouse gas, the quantity of the greenhouse gas that the
25 Administrator determines makes the same contribution to global warming as 1
26 metric ton of carbon dioxide.

27 (6) CORPORATION.—The term “Corporation” means the Climate Change Credit
28 Corporation established by section 4201(a).

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

30 (A) any facility within the electric power sector that contains fossil fuel-fired
31 electricity generating units that together emit more than 10,000 carbon dioxide
32 equivalents of greenhouse gas in any year;

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

35 (C) any facility that in any year produces, or any entity that in any year
36 imports, petroleum- or coal-based transportation fuel, the use of which will
37 emit more than 10,000 carbon dioxide equivalents of greenhouse gas, assuming
38 no capture and permanent sequestration of that gas; or

1 (D) any facility that in any year produces, or any entity that in any year
2 imports, nonfuel chemicals that will emit more than 10,000 carbon dioxide
3 equivalents of greenhouse gas, assuming no capture and destruction or
4 permanent sequestration of that gas.

5 (8) DESTRUCTION.—The term “destruction” means the conversion of a
6 greenhouse gas by thermal, chemical, or other means—

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

8 (B) for which credit given reflects the extent of reduction in global warming
9 potential actually achieved.

10 (9) ELECTRIC POWER SECTOR.—The term “electric power sector” means the
11 “Electric Power Industry”, as that term is used in Table ES–7 of the Environmental
12 Protection Agency document entitled “Inventory of U.S. Greenhouse Gas Emissions
13 and Sinks: 1990–2005”.

14 (10) EMISSION ALLOWANCE.—The term “emission allowance” means an
15 authorization to emit 1 carbon dioxide equivalent of greenhouse gas.

16 (11) EMISSION ALLOWANCE ACCOUNT.—The term “Emission Allowance Account”
17 means the aggregate of emission allowances that the Administrator establishes for a
18 calendar year.

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

20 (A) a building, structure, or installation located on 1 or more contiguous or
21 adjacent properties of an entity in the United States; and

22 (B) at the option of the Administrator, any activity or operation that has a
23 technical connection with the activities carried out at a facility, such as use of
24 transportation fleets, pipelines, transmission lines, and distribution lines, but
25 that is not conducted or located on the property of the facility.

26 (13) FAIR MARKET VALUE.—The term “fair market value” means the average
27 price, in a particular calendar year, of an emission allowance auctioned by the
28 Corporation.

29 (14) GEOLOGICAL SEQUESTRATION; GEOLOGICALLY SEQUESTERED.—The terms
30 “geological sequestration” and “geologically sequestered” mean the long-term
31 isolation of greenhouse gases, without reversal, in geological formations, in
32 accordance with section 1412(b)(16) of the Safe Drinking Water Act (42 U.S.C.
33 300g–1(b)(16)).

34 (15) GREENHOUSE GAS.—The term “greenhouse gas” means any of—

35 (A) carbon dioxide;

36 (B) methane;

37 (C) nitrous oxide;

38 (D) sulfur hexafluoride;

39 (E) a hydrofluorocarbon; or

1 (F) a perfluorocarbon.

2 (16) INDUSTRIAL SECTOR.—The term “industrial sector” means “Industry”, as that
3 term is used in Table ES–7 of the Environmental Protection Agency document
4 entitled “Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2005”.

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

6 (A) a potentially unaccounted increase in greenhouse gas emissions by a
7 facility or entity caused by an offset project that produces an accounted
8 reduction in greenhouse gas emissions; or

9 (B) a potentially unaccounted decrease in sequestration that is caused by an
10 offset project that results in an accounted increase in sequestration.

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

13 (A) that has a legal, regulatory, or contractual obligation to deliver electricity
14 to retail consumers; and

15 (B) whose rates and costs are, except in the case of a registered electric
16 cooperative, regulated by a State agency, regulatory commission, municipality,
17 or public utility district.

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

20 (20) OFFSET ALLOWANCE.—The term “offset allowance” means a unit of
21 reduction in the quantity of emissions or an increase in sequestration equal to 1
22 carbon dioxide equivalent at a facility that is not a covered facility, where the
23 reduction in emissions or increase in sequestration is eligible to be used as an
24 additional means of compliance for the submission requirements established under
25 section 1202.

26 (21) OFFSET PROJECT.—The term “offset project” means a project, other than a
27 project at a covered facility, that reduces greenhouse gas emissions or increases
28 sequestration of carbon dioxide.

29 (22) PROJECT DEVELOPER.—The term “project developer” means an individual or
30 entity implementing an offset project.

31 (23) RETAIL RATE FOR DISTRIBUTION SERVICE.—

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

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

37 (24) RETIRE AN EMISSION ALLOWANCE.—The term “retire an emission allowance”
38 means to disqualify an emission allowance for any subsequent use, regardless of
39 whether the use is a sale, exchange, or submission of the allowance in satisfying a
40 compliance obligation.

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

3 (26) RURAL ELECTRIC COOPERATIVE.—The term “rural electric cooperative”
4 means a cooperatively-owned association that is eligible to receive loans under
5 section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904).

6 (27) SEQUESTERED AND SEQUESTRATION.—The terms “sequestered” and
7 “sequestration” mean the capture, permanent separation, isolation, or removal of
8 greenhouse gases from the atmosphere.

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

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

16 TITLE I—CAPPING GREENHOUSE GAS EMISSIONS

17 Subtitle A—Tracking Emissions

18 SEC. 1101. PURPOSE.

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

20 (1) is complete, consistent, transparent, and accurate;

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

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

26 SEC. 1102. DEFINITIONS.

27 In this subtitle:

28 (1) AFFECTED FACILITY.—

29 (A) IN GENERAL.—The term “affected facility” means—

30 (i) a covered facility;

31 (ii) another facility that emits a greenhouse gas, as determined by the
32 Administrator; and

33 (iii) at the option of the Administrator, a vehicle fleet with emissions of
34 more than 10,000 carbon dioxide equivalents per year, assuming no
35 double-counting of emissions.

36 (B) EXCLUSIONS.—The term “affected facility” does not include any facility

1 that—

2 (i) is not a covered facility;

3 (ii) is owned or operated by a small business (as described in part 121 of
4 title 13, Code of Federal Regulations (or a successor regulation)); and

5 (iii) emits fewer than 10,000 carbon dioxide equivalents in any year.

6 (2) CARBON CONTENT.—The term “carbon content” means the quantity of carbon
7 (in carbon dioxide equivalent) contained in a fuel.

8 (3) CLIMATE REGISTRY.—The term “Climate Registry” means the greenhouse gas
9 emissions registry jointly established and managed by more than 40 States and
10 Indian tribes to collect high-quality greenhouse gas emission data from facilities,
11 corporations, and other organizations to support various greenhouse gas emission
12 reporting and reduction policies for the member States and Indian tribes.

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

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

17 (A) stationary combustion source emissions emitted as a result of
18 combustion of fuels in stationary equipment, such as boilers, furnaces, burners,
19 turbines, heaters, incinerators, engines, flares, and other similar sources;

20 (B) process emissions consisting of emissions from chemical or physical
21 processes other than combustion;

22 (C) fugitive emissions consisting of intentional and unintentional emissions
23 from equipment leaks, such as joints, seals, packing, and gaskets, or from piles,
24 pits, cooling towers, and other similar sources; and

25 (D) biogenic emissions resulting from biological processes, such as
26 anaerobic decomposition, nitrification, and denitrification.

27 (6) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in
28 section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C.
29 450b).

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

32 (8) SOURCE.—The term “source” means any building, structure, installation, unit,
33 point, operation, vehicle, land area, or other item that emits or may emit a
34 greenhouse gas.

35 SEC. 1103. REPORTING REQUIREMENTS.

36 (a) In General.—Subject to this section, each affected facility shall submit to the
37 Administrator, for inclusion in the Registry, periodic reports, including annual and
38 quarterly data, that—

39 (1) include the quantity and type of fossil fuels, including feedstock fossil fuels,

1 that are extracted, produced, refined, imported, exported, or consumed at or by the
2 facility;

3 (2) include the quantity of hydrofluorocarbons, perfluorocarbons, sulfur
4 hexafluoride, nitrous oxide, carbon dioxide that has been captured and sequestered,
5 and other greenhouse gases generated, produced, imported, exported, or consumed
6 at or by the facility;

7 (3) include the quantity of electricity generated, imported, exported, or consumed
8 by or at the facility, and information on the quantity of greenhouse gases emitted
9 when the imported, exported, or consumed electricity was generated, as determined
10 by the Administrator;

11 (4) include the aggregate quantity of all greenhouse gas emissions from sources at
12 the facility, including stationary combustion source emissions, process emissions,
13 and fugitive emissions;

14 (5) include greenhouse gas emissions expressed in metric tons of each greenhouse
15 gas emitted and in the quantity of carbon dioxide equivalents of each greenhouse gas
16 emitted;

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

19 (7) quantify greenhouse gas emissions in accordance with the measurement
20 standards established under section 1104;

21 (8) include other data necessary for accurate and complete accounting of
22 greenhouse gas emissions, as determined by the Administrator;

23 (9) include an appropriate certification regarding the accuracy and completeness
24 of reported data, as determined by the Administrator; and

25 (10) are submitted electronically to the Administrator, in such form and to such
26 extent as may be required by the Administrator.

27 (b) De Minimis Exemptions.—

28 (1) IN GENERAL.—The Administrator may determine—

29 (A) whether certain sources at a facility should be considered to be eligible
30 for a de minimis exemption from a requirement for reporting under subsection
31 (a); and

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

34 (2) FACTORS.—In making a determination under paragraph (1), the Administrator
35 shall consider the availability and suitability of simplified techniques and tools for
36 quantifying emissions and the cost to measure those emissions relative to the
37 purposes of this title, including the goal of collecting complete and consistent
38 facility-wide data.

39 (c) Verification of Report Required.—Before including the information from a report
40 required under this section in the Registry, the Administrator shall verify the

1 completeness and accuracy of the report using information provided under this section,
2 obtained under section 9003(c), or obtained under other provisions of law.

3 (d) Timing.—

4 (1) CALENDAR YEARS 2004 THROUGH 2007.—For a baseline period of calendar
5 years 2004 through 2007, each affected facility shall submit required annual data
6 described in this section to the Administrator not later than March 31, 2009.

7 (2) SUBSEQUENT CALENDAR YEARS.—For calendar year 2008 and each subsequent
8 calendar year, each affected facility shall submit quarterly data described in this
9 section to the Administrator not later than 60 days after the end of the applicable
10 quarter.

11 (e) No Effect on Other Requirements.—Nothing in this title affects any requirement in
12 effect as of the date of enactment of this Act relating to the reporting of—

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

14 (2) greenhouse gas emission data; or

15 (3) other relevant data.

16 SEC. 1104. DATA QUALITY AND VERIFICATION.

17 (a) Protocols and Methods.—

18 (1) IN GENERAL.—The Administrator shall establish by regulation, taking into
19 account the work done by the Climate Registry, comprehensive protocols and
20 methods to ensure the accuracy, completeness, consistency, and transparency of data
21 on greenhouse gas emissions and fossil fuel production, refining, importation,
22 exportation, and consumption submitted to the Registry that include—

23 (A) accounting and reporting standards for fossil fuel production, refining,
24 importation, exportation, and consumption;

25 (B) a requirement that, where technologically feasible, submitted data are
26 monitored using monitoring systems for fuel flow or emissions, such as
27 continuous emission monitoring systems or equivalent systems of similar rigor,
28 accuracy, quality, and timeliness;

29 (C) a requirement that, if a facility has already been directed to monitor
30 emissions of a greenhouse gas using a continuous emission monitoring system
31 under existing law, that system be used in complying with this Act with respect
32 to the greenhouse gas;

33 (D) for cases in which the Administrator determines that monitoring
34 emissions with the precision, reliability, accessibility, and timeliness similar to
35 that provided by a continuous emission monitoring system are not
36 technologically feasible, standardized methods for calculating greenhouse gas
37 emissions in specific industries using other readily available and reliable
38 information, such as fuel consumption, materials consumption, production, or
39 other relevant activity data, on the condition that those methods do not
40 underreport emissions, as compared with the continuous emission monitoring

- 1 system;
- 2 (E) information on the accuracy of measurement and calculation methods;
- 3 (F) methods to avoid double-counting of greenhouse gas emissions;
- 4 (G) protocols to prevent an affected facility from avoiding the reporting
- 5 requirements of this title; and
- 6 (H) protocols for verification of data submitted by affected facilities.

7 (2) BEST PRACTICES.—The protocols and methods developed under paragraph (1)
8 shall incorporate and conform to the best practices from the most recent Federal,
9 State, and international protocols for the measurement, accounting, reporting, and
10 verification of greenhouse gas emissions to ensure the accuracy, completeness, and
11 consistency of the data.

12 (b) Verification; Information by Reporting Entities.—Each affected facility shall—

13 (1) provide information sufficient for the Administrator to verify, in accordance
14 with the protocols and methods developed under subsection (a), that the fossil fuel
15 data and greenhouse gas emission data of the affected facility have been completely
16 and accurately reported; and

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

- 19 (A) data sources;
- 20 (B) information on internal control activities;
- 21 (C) information on assumptions used in reporting emissions and fuels;
- 22 (D) uncertainty analyses; and
- 23 (E) other relevant data and information to facilitate the verification of reports
- 24 submitted to the Registry.

25 (c) Waiver of Reporting Requirements.—The Administrator may waive reporting
26 requirements for specific facilities if the Administrator determines that sufficient and
27 equally or more reliable data are available under other provisions of law.

28 (d) Missing Data.—If information, satisfactory to the Administrator, is not provided
29 for an affected facility, the Administrator shall—

30 (1) prescribe methods to estimate emissions for the facility for each period for
31 which data are missing, reflecting the highest emission levels that may reasonably
32 have occurred during the period for which data are missing; and

33 (2) take appropriate enforcement action pursuant to this section and section
34 9003(b).

35 SEC. 1105. FEDERAL GREENHOUSE GAS REGISTRY.

36 (a) Establishment.—The Administrator shall establish a Federal greenhouse gas
37 registry.

1 (b) Administration.—In establishing the Registry, the Administrator shall—

2 (1) design and operate the Registry;

3 (2) establish an advisory body that is broadly representative of private enterprise,
4 agriculture, environmental groups, and State, tribal, and local governments to guide
5 the development and management of the Registry;

6 (3) provide coordination and technical assistance for the development of proposed
7 protocols and methods, taking into account the duties carried out by the Climate
8 Registry, to be published by the Administrator;

9 (4)(A) develop an electronic format for reporting under guidelines established
10 under section 1104(a)(1); and

11 (B) make the electronic format available to reporting entities;

12 (5) verify and audit the data submitted by reporting entities;

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

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

17 (8) immediately publish on the Internet all information contained in the Registry,
18 except in any case in which publishing the information would result in a disclosure
19 of—

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

21 (B) confidential business information that cannot be derived from
22 information that is otherwise publicly available and that would cause
23 significant calculable competitive harm if published (except that information
24 relating to greenhouse gas emissions shall not be considered to be confidential
25 business information).

26 (c) Third-Party Verification.—The Administrator may use the services of third parties
27 that have no conflicts of interest to verify reports required under section 1103.

28 (d) Regulations.—The Administrator shall—

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

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

33 SEC. 1106. ENFORCEMENT.

34 (a) Civil Actions.—The Administrator may bring a civil action in United States district
35 court against the owner or operator of an affected facility that fails to comply with any
36 requirement of this subtitle.

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

1 Subtitle B—Reducing Emissions

2 SEC. 1201. EMISSION ALLOWANCE ACCOUNT.

3 (a) In General.—The Administrator shall establish a separate quantity of emission
4 allowances for each of calendar years 2012 through 2050.

5 (b) Identification Numbers.—The Administrator shall assign to each emission
6 allowance established under subsection (a) a unique identification number that includes
7 the calendar year for which that emission allowance was established.

8 (c) Legal Status of Emission Allowances.—

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

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

13 (3) OTHER PROVISIONS UNAFFECTED.—Nothing in this Act relating to emission
14 allowances shall affect the application of, or compliance with, any other provision of
15 law to or by a covered facility.

16 (d) Allowances for Each Calendar Year.—The numbers of emission allowances
17 established by the Administrator for each of calendar years 2012 through 2050 shall be as
18 follows:
19

Calendar Year	Number of Emissions Allowances (in Millions)
2012	5,200
2013	5,104
2014	5,008
2015	4,912
2016	4,816
2017	4,720
2018	4,624
2019	4,528
2020	4,432
2021	4,336
2022	4,240
2023	4,144
2024	4,048
2025	3,952
2026	3,856
2027	3,760
2028	3,664
2029	3,568
2030	3,472
2031	3,376

2032	3,280
2033	3,184
2034	3,088
2035	2,992
2036	2,896
2037	2,800
2038	2,704
2039	2,608
2040	2,512
2041	2,416
2042	2,320
2043	2,224
2044	2,128
2045	2,032
2046	1,936
2047	1,840
2048	1,744
2049	1,646
2050	1,560

1

2 **SEC. 1202. COMPLIANCE OBLIGATION.**

3 (a) In General.—Not later than 90 days after the end of a calendar year, the owner or
4 operator of a covered facility shall submit to the Administrator an emission allowance, an
5 offset allowance awarded pursuant to subtitle D of title II, or an international allowance
6 or credit obtained in compliance with regulations promulgated under section 2502, for
7 each carbon dioxide equivalent of greenhouse gas that—

8 (1) was emitted by that facility during the preceding year;

9 (2) will, assuming no capture and permanent geological sequestration of that gas,
10 be emitted from the use of any petroleum- or coal-based transportation fuel that was
11 produced or imported at that facility during the preceding year; and

12 (3) will, assuming no capture and destruction or permanent geological
13 sequestration of that gas, be emitted from any nonfuel chemical that was produced
14 or imported at that facility during the preceding year.

15 (b) Retirement of Allowances.—Immediately upon receipt of an emission allowance
16 under subsection (a), the Administrator shall retire the emission allowance.

17 (c) Determination of Compliance.—Not later than July 1 of each year, the
18 Administrator shall determine whether the owners and operators of all covered facilities
19 are in full compliance with subsection (a) for the preceding year.

20 **SEC. 1203. PENALTY FOR NONCOMPLIANCE.**

21 (a) Excess Emissions Penalty.—

1 (1) IN GENERAL.—The owner or operator of any covered facility that fails for any
2 year to submit to the Administrator by the deadline described in section 1202(a) or
3 2303, 1 or more of the emission allowances due pursuant to either of those sections
4 shall be liable for the payment to the Administrator of an excess emissions penalty.

5 (2) AMOUNT.—The amount of an excess emissions penalty required to be paid
6 under paragraph (1) shall be, as determined by the Administrator, an amount equal
7 to the product obtained by multiplying—

8 (A) the number of excess emission allowances that the owner or operator
9 failed to submit; and

10 (B) the greater of—

11 (i) \$200; or

12 (ii) a dollar figure representing 3 times the mean market value of an
13 emission allowance during the calendar year for which the emission
14 allowances were due.

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

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

21 (5) NO EFFECT ON LIABILITY.—An excess emissions penalty due and payable by
22 the owner or operator of a covered facility under this subsection shall not diminish
23 the liability of the owner or operator for any fine, penalty, or assessment against the
24 owner or operator for the same violation under any other provision of this Act or any
25 other law.

26 (b) Excess Emission Allowance.—

27 (1) IN GENERAL.—The owner or operator of a covered facility that fails for any
28 year to submit to the Administrator by the deadline described in section 1202(a) or
29 2303 1 or more of the emission allowances due pursuant to either of those sections
30 shall be liable to offset the excess emissions by an equal quantity, in tons, during—

31 (A) the following calendar year; or

32 (B) such longer period as the Administrator may prescribe.

33 (2) PLAN.—

34 (A) IN GENERAL.—Not later than 60 days after the end of the calendar year
35 during which a covered facility emits excess emissions, the owner or operator
36 of the covered facility shall submit to the Administrator, and to the State in
37 which the covered facility is located, a proposed plan to achieve the required
38 offsets for the excess emissions.

39 (B) CONDITION OF OPERATION.—Upon approval of a proposed plan described
40 in subparagraph (A) by the Administrator, the plan, as submitted, modified, or

1 conditioned, shall be considered to be a condition of the operating permit for
2 the covered facility, without further review or revision of the permit.

3 (C) DEDUCTION OF ALLOWANCES.—For each covered facility that, in any
4 calendar year, emits excess emissions, the Administrator shall deduct, from
5 emission allowances allocated to the covered facility for the calendar year, or
6 for succeeding years during which offsets are required, emission allowances
7 equal to the excess quantity, in tons, of the excess emissions.

8 (c) Prohibition.—It shall be unlawful for the owner or operator of any facility liable for
9 a penalty and offset under this section to fail—

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

11 (2) to provide, and thereafter comply with, a proposed plan for compliance as
12 required by subsection (b)(2); and

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

14 (d) No Effect on Other Section.—Nothing in this subtitle limits or otherwise affects the
15 application of section 9003(b).

16 TITLE II—MANAGING AND CONTAINING COSTS 17 EFFICIENTLY

18 Subtitle A—Trading

19 SEC. 2101. SALE, EXCHANGE, AND RETIREMENT 20 OF EMISSION ALLOWANCES.

21 Except as otherwise provided in this Act, the lawful holder of an emission allowance
22 may sell, exchange, transfer, submit for compliance in accordance with section 1202, or
23 retire the emission allowance.

24 SEC. 2102. NO RESTRICTION ON TRANSACTIONS.

25 The privilege of purchasing, holding, selling, exchanging, and retiring emission
26 allowances shall not be restricted to the owners and operators of covered facilities.

27 SEC. 2103. ALLOWANCE TRANSFER SYSTEM.

28 (a) In General.—Not later than 18 months after the date of enactment of this Act, the
29 Administrator shall promulgate regulations to carry out the provisions of this Act relating
30 to emission allowances, including regulations providing that the transfer of emission
31 allowances shall not be effective until such date as a written certification of the transfer,
32 signed by a responsible official of each party to the transfer, is received and recorded by
33 the Administrator in accordance with those regulations.

34 (b) Transfers.—

35 (1) IN GENERAL.—The regulations promulgated under subsection (a) shall permit
36 the transfer of allowances prior to the issuance of the allowances.

1 (2) DEDUCTION AND ADDITION OF TRANSFERS.—A recorded pre-allocation transfer
2 of allowances shall be—

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

5 (B) added to those allowances distributed to the transferee.

6 SEC. 2104. ALLOWANCE TRACKING SYSTEM.

7 The regulations promulgated under section 2103(a) shall include a system for issuing,
8 recording, and tracking emission allowances that shall specify all necessary procedures
9 and requirements for an orderly and competitive functioning of the emission allowance
10 system.

11 Subtitle B—Banking

12 SEC. 2201. INDICATION OF CALENDAR YEAR.

13 An emission allowance submitted to the Administrator by the owner or operator of a
14 covered facility in accordance with section 1202(a) shall not be required to indicate in the
15 identification number of the emission allowance the calendar year for which the emission
16 allowance is submitted.

17 SEC. 2202. EFFECT OF TIME.

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

20 Subtitle C—Borrowing

21 SEC. 2301. REGULATIONS.

22 (a) In General.—Not later than 3 years after the date of enactment of this Act, the
23 Administrator shall promulgate regulations under which, subject to subsection (b), the
24 owner or operator of a covered facility may—

25 (1) borrow emission allowances from the Administrator; and

26 (2) for a calendar year, submit borrowed emission allowances to the
27 Administrator in satisfaction of up to 15 percent of the compliance obligation under
28 section 1202(a).

29 (b) Limitation.—An emission allowance borrowed under subsection (a) shall be an
30 emission allowance established by the Administrator for a specific future calendar year
31 under subsection 1201(a).

32 SEC. 2302. TERM.

33 The owner or operator of a covered facility shall not submit, and the Administrator
34 shall not accept, a borrowed emission allowance in partial satisfaction of the compliance
35 obligation under section 1202(a) for any calendar year that is more than 5 years earlier
36 than the calendar year included in the identification number of the borrowed emission

1 allowance.

2 SEC. 2303. REPAYMENT WITH INTEREST.

3 For each borrowed emission allowance submitted in partial satisfaction of the
4 compliance obligation under subsection 1202(a) for a particular calendar year (referred to
5 in this section as the “use year”), the number of emission allowances that the owner or
6 operator is required to submit under section 1202(a) for the year from which the
7 borrowed emission allowance was taken (referred to in this section as the “source year”)
8 shall be increased by an amount equal to the product obtained by multiplying—

9 (1) 1.1; and

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

11 Subtitle D—Offsets

12 SEC. 2401. OUTREACH INITIATIVE ON REVENUE 13 ENHANCEMENT FOR AGRICULTURAL 14 PRODUCERS.

15 (a) Establishment.—The Secretary of Agriculture, acting through the Chief of the
16 Natural Resources Conservation Service, the Chief of the Forest Service, the
17 Administrator of the Cooperative State Research, Education, and Extension Service, and
18 land-grant colleges and universities, in consultation with the Administrator and the heads
19 of other appropriate departments and agencies, shall establish an outreach initiative to
20 provide information to agricultural producers, agricultural organizations, foresters, and
21 other landowners about opportunities under this subtitle to earn new revenue.

22 (b) Components.—The initiative under this section—

23 (1) shall be designed to ensure that, to the maximum extent practicable,
24 agricultural organizations and individual agricultural producers, foresters, and other
25 landowners receive detailed practical information about—

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

27 (B) measurement protocols, monitoring, verifying, inventorying, registering,
28 insuring, and marketing offsets under this title;

29 (C) emerging domestic and international markets for energy crops,
30 allowances, and offsets; and

31 (D) local, regional, and national databases and aggregation networks to
32 facilitate achievement, measurement, registration, and sales of offsets;

33 (2) shall provide—

34 (A) outreach materials, including the handbook published under subsection
35 (c), to interested parties;

36 (B) workshops; and

37 (C) technical assistance; and

1 (3) may include the creation and development of regional marketing centers or
2 coordination with existing centers (including centers within the Natural Resources
3 Conservation Service or the Cooperative State Research, Education, and Extension
4 Service or at land-grant colleges and universities).

5 (c) Handbook.—

6 (1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act,
7 the Secretary of Agriculture, in consultation with the Administrator and after an
8 opportunity for public comment, shall publish a handbook for use by agricultural
9 producers, agricultural cooperatives, foresters, other landowners, offset buyers, and
10 other stakeholders that provides easy-to-use guidance on achieving, reporting,
11 registering, and marketing offsets.

12 (2) DISTRIBUTION.—The Secretary of Agriculture shall ensure, to the maximum
13 extent practicable, that the handbook—

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

15 (B) includes, with respect to the electronic form of the handbook described
16 in subparagraph (A), electronic forms and calculation tools to facilitate the
17 petition process described in section 2404; and

18 (C) is distributed widely through land-grant colleges and universities and
19 other appropriate institutions.

20 **SEC. 2402. ESTABLISHMENT OF DOMESTIC OFFSET**
21 **PROGRAM.**

22 (a) Alternative Means of Compliance.—Beginning with calendar year 2012, the owner
23 or operator of a covered entity may satisfy 15 percent of the total allowance submission
24 requirement of the covered entity under section 1202(a) by submitting offset allowances
25 generated in accordance with this subtitle.

26 (b) Regulations Required.—Not later than 18 months after the date of enactment of this
27 Act, the Administrator, in consultation with the Secretary of Agriculture, shall
28 promulgate regulations authorizing the issuance and certification of offset allowances
29 from certain agricultural, forestry, and other land use-related projects undertaken within
30 the United States, and certain other projects identified by the Administrator under section
31 2403(b)(4), including provisions that—

32 (1) ensure that those offsets represent real, verifiable, additional, permanent, and
33 enforceable reductions in greenhouse gas emissions or increases in biological
34 sequestration;

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

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

39 (4) establish procedures to monitor, quantify, and discount reductions in
40 greenhouse gas emissions or increases in biological sequestration, in accordance

- 1 with subsections (d) through (g) of section 2404;
- 2 (5) establish procedures for verification, registration, and issuance of offset
3 allowances, in accordance with section 2405; and
- 4 (6) ensure permanence of offsets by mitigating and compensating for reversals, in
5 accordance with section 2406.
- 6 (c) Offset Allowances Awarded.—The Administrator shall issue offset allowances for
7 qualifying emission reductions and biological sequestrations from offset projects that
8 satisfy the applicable requirements of this subtitle.
- 9 (d) Ownership.—Initial ownership of an offset allowance shall lie with a project
10 developer, unless otherwise specified in a legally-binding contract or agreement.
- 11 (e) Transferability.—An offset allowance generated pursuant to this subtitle may be
12 sold, traded, or transferred, on the conditions that—
- 13 (1) the offset allowance has not expired or been retired or canceled; and
- 14 (2) liability and responsibility for mitigating and compensating for reversals of
15 registered offset allowances is specified in accordance with section 2406(b).

16 SEC. 2403. ELIGIBLE AGRICULTURAL AND 17 FORESTRY OFFSET PROJECT TYPES.

- 18 (a) In General.—Offset allowances from agricultural, forestry, and other land use-
19 related projects shall be limited to those allowances achieving an offset of 1 or more
20 greenhouse gases by a method other than a reduction of combustion of greenhouse gas-
21 emitting fuel.
- 22 (b) Categories of Eligible Agricultural, Forestry, and Other Land Use-Related
23 Projects.—Subject to the requirements promulgated pursuant to section 2402(b), the
24 types of operations eligible to generate offset allowances under this subtitle include—
- 25 (1) agricultural and rangeland sequestration and management practices,
26 including—
- 27 (A) altered tillage practices;
- 28 (B) winter cover cropping, continuous cropping, and other means to increase
29 biomass returned to soil in lieu of planting followed by fallowing;
- 30 (C) conversion of cropland to rangeland or grassland, on the condition that
31 the land has been in nonforest use for at least 10 years before the date of
32 initiation of the project;
- 33 (D) reduction of nitrogen fertilizer use or increase in nitrogen use efficiency;
- 34 (E) reduction in the frequency and duration of flooding of rice paddies; and
- 35 (F) reduction in carbon emissions from organic soils;
- 36 (2) changes in carbon stocks attributed to land use change and forestry activities
37 limited to—

- 1 (A) afforestation or reforestation of acreage not forested as of the date of
2 enactment of this Act; and
3 (B) forest management resulting in an increase in forest stand volume;
4 (3) manure management and disposal, including—
5 (A) waste aeration; and
6 (B) methane capture and combustion;
7 (4) subject to the requirements of this subtitle, any other terrestrial offset practices
8 identified by the Administrator, including—
9 (A) the capture or reduction of noncovered fugitive emissions;
10 (B) methane capture and combustion at nonagricultural facilities; and
11 (C) other actions that result in the avoidance or reduction of greenhouse gas
12 emissions in accordance with section 2402; and
13 (5) combinations of any of the offset practices described in paragraphs (1) through
14 (4).

15 (c) Exclusion.—A project participating in a Federal, State, or local cost-sharing,
16 competitive grant, or technical assistance program shall not be eligible to generate offset
17 allowances under this subtitle.

18 (d) Earned Allowances.—

19 (1) IN GENERAL.—Any project approved by the Administrator shall earn offset
20 allowances in proportion to the private investment in the project, as described in
21 paragraph (2).

22 (2) PRIVATE INVESTMENT.—

23 (A) IN GENERAL.—Except as provided in subparagraph (B), the private share
24 of investment in the project shall be assumed to be 50 percent.

25 (B) DEMONSTRATION OF INVESTMENT.—Subparagraph (A) shall not apply in
26 any case in which a project elects to demonstrate the private share of
27 investment in the project in accordance with rules established by the
28 Administrator.

29 SEC. 2404. PROJECT INITIATION AND APPROVAL.

30 (a) Project Approval.—A project developer—

31 (1) may submit a petition for offset project approval at any time following the
32 effective date of regulations promulgated under section 2402(b); but

33 (2) may not register or issue offset allowances until such approval is received and
34 until after the emission reductions or sequestrations supporting the offset allowances
35 have actually occurred.

36 (b) Petition Process.—Prior to offset registration and issuance of offset allowances, a
37 project developer shall submit a petition to the Administrator, consisting of—

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

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

4 (3) subject to the requirements of this subtitle, any other information identified by
5 the Administrator as necessary to meet the objectives of this subtitle.

6 (c) Approval and Notification.—

7 (1) IN GENERAL.—Not later than 180 days after the date on which the
8 Administrator receives a complete petition under subsection (b), the Administrator
9 shall—

10 (A) determine whether the monitoring and quantification plan satisfies the
11 applicable requirements of this subtitle;

12 (B) determine whether the greenhouse gas initiation certification indicates a
13 significant deviation in accordance with subsection (e)(3);

14 (C) notify the project developer of the determinations under subparagraphs
15 (A) and (B); and

16 (D) issue offset allowances for approved projects.

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

19 (d) Monitoring and Quantification.—

20 (1) IN GENERAL.—A project developer shall make use of the standardized tools
21 and methods described in this section to monitor, quantify, and discount reductions
22 in greenhouse gas emissions or increases in sequestration.

23 (2) MONITORING AND QUANTIFICATION PLAN.—A monitoring and quantification
24 plan shall be used to monitor, quantify, and discount reductions in greenhouse gas
25 emissions or increases in sequestration as described by this subsection.

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

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

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

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

33 (A) a description of the offset project, including project type;

34 (B) a determination of accounting periods;

35 (C) an assignment of reporting responsibility;

36 (D) the contents and timing of public reports, including summaries of the
37 original data, as well as the results of any analyses;

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

3 (F) a description of which of the monitoring and quantification tools
4 developed under subsection (f) are to be used to monitor and quantify changes
5 in greenhouse gas fluxes or carbon stocks associated with a project;

6 (G) a description of which of the standardized methods developed under
7 subsection (g) to be used to determine additionality, estimate the baseline
8 carbon, and discount for leakage;

9 (H) based on the standardized methods chosen in subparagraphs (F) and (G),
10 a determination of uncertainty in accordance with subsection (h);

11 (I) what site-specific data, if any, will be used in monitoring, quantification,
12 and the determination of discounts;

13 (J) a description of procedures for use in managing and storing data,
14 including quality-control standards and methods, such as redundancy in case
15 records are lost; and

16 (K) subject to the requirements of this subtitle, any other information
17 identified by the Administrator as being necessary to meet the objectives of this
18 subtitle.

19 (e) Greenhouse Gas Initiation Certification.—

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

25 (2) GREENHOUSE GAS INITIATION CERTIFICATION REQUIREMENTS.—A greenhouse
26 gas initiation certification developed under this subsection shall include—

27 (A) the estimated greenhouse gas flux or carbon stock for the offset project
28 for each of the 4 complete calendar years preceding the effective date of the
29 regulations promulgated under section 2402(b); and

30 (B) the estimated greenhouse gas flux or carbon stock for the offset project,
31 averaged across each of the 4 calendar years preceding the effective date of the
32 regulations promulgated under section 2402(b).

33 (3) DETERMINATION OF SIGNIFICANT DEVIATION.—Based on standards developed
34 by the Administrator—

35 (A) each greenhouse gas initiation certification submitted pursuant to this
36 section shall be reviewed; and

37 (B) a determination shall be made as to whether, as a result of activities or
38 behavior inconsistent with the purposes of this title, a significant deviation
39 exists between the average annual greenhouse gas flux or carbon stock and the
40 greenhouse gas flux or carbon stock for a given year.

1 (f) Development of Monitoring and Quantification Tools for Agricultural and Forestry
2 Projects.—

3 (1) IN GENERAL.—Subject to section 2402(b), the Administrator, in consultation
4 with the Secretary of Agriculture, shall develop standardized tools for use in the
5 monitoring and quantification of changes in greenhouse gas fluxes or carbon stocks
6 for each offset project type listed under section 2403(b).

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

10 (A) statistically-sound field and remote sensing sampling methods,
11 procedures, techniques, protocols, or programs;

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

13 (C) any other process or tool considered to be acceptable by the
14 Administrator, in consultation with the Secretary of Agriculture.

15 (g) Development of Accounting and Discounting Methods.—

16 (1) IN GENERAL.—The Administrator, in consultation with the Secretary of
17 Agriculture, shall—

18 (A) develop standardized methods for use in accounting for additionality and
19 uncertainty, estimating the baseline, and discounting for leakage for each offset
20 project type listed under section 2403(b); and

21 (B) require that leakage be subtracted from reductions in greenhouse gas
22 emissions or increases in sequestration attributable to a project.

23 (2) ADDITIONALITY DETERMINATION AND BASELINE ESTIMATION.—The
24 standardized methods used to determine additionality and establish baselines shall,
25 for each project type, at a minimum—

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

28 (i) similarity in current management practices;

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

30 (iii) similarity in geographical and biophysical characteristics;

31 (B) in the case of an emission reduction project, use as a basis emissions
32 from preexisting or comparable facilities; and

33 (C) in the case of a sequestration project or emission reduction project,
34 specify a selected time period.

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

37 (A) the scope of the offset system in terms of activities and geography
38 covered;

- 1 (B) the markets relevant to the offset project;
- 2 (C) emission intensity per unit of production, both inside and outside of the
- 3 offset project; and
- 4 (D) a time period sufficient in length to yield a stable leakage rate.

5 (h) Uncertainty for Agricultural and Forestry Projects.—

6 (1) IN GENERAL.—The Administrator, in consultation with the Secretary of
7 Agriculture, shall develop standardized methods for use in determining and
8 discounting for uncertainty for each offset project type listed under section 2403(b).

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

11 (A) the robustness and rigor of the methods used by a project developer to
12 monitor and quantify changes in greenhouse gas fluxes or carbon stocks;

13 (B) the robustness and rigor of methods used by a project developer to
14 determine additionality and leakage; and

15 (C) an exaggerated proportional discount that increases relative to
16 uncertainty, as determined by the Administrator, to encourage better
17 measurement and accounting.

18 (i) Acquisition of New Data and Review of Methods for Agricultural and Forestry
19 Projects.—The Administrator, in consultation with the Secretary of Agriculture, shall—

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

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

25 (A) validation of existing methods, protocols, procedures, techniques,
26 factors, equations, or models;

27 (B) development of new methods, protocols, procedures, techniques, factors,
28 equations, or models;

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

30 (D) any other information identified by the Administrator, in consultation
31 with the Secretary of Agriculture, that is necessary to meet the objectives of
32 this subtitle.

33 (j) Exclusion.—No activity for which any emission allowances are received under
34 subtitle G of title III shall generate offset allowances under this subtitle.

35 **SEC. 2405. OFFSET VERIFICATION AND ISSUANCE**
36 **OF ALLOWANCES FOR AGRICULTURAL AND**
37 **FORESTRY PROJECTS.**

1 (a) In General.—Offset allowances may be claimed for net emission reductions or
2 increases in sequestration annually, after accounting for any necessary discounts in
3 accordance with section 2404, by submitting a verification report for an offset project to
4 the Administrator.

5 (b) Offset Verification.—

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

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

9 (B) shall be developed taking into consideration—

10 (i) the information and methodology contained within a monitoring and
11 quantification plan;

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

13 (I) quantification of net emission reductions or increases in
14 sequestration;

15 (II) determination of additionality;

16 (III) calculation of leakage;

17 (IV) assessment of permanence;

18 (V) discounting for uncertainty; and

19 (VI) the adjustment of net emission reductions or increases in
20 sequestration by the discounts determined under clauses (II) through
21 (V); and

22 (iii) subject to the requirements of this subtitle, any other information
23 identified by the Administrator as being necessary to achieve the purposes
24 of this subtitle.

25 (2) VERIFICATION REPORT REQUIREMENTS.—The Administrator shall specify the
26 required components of a verification report, including—

27 (A) the quantity of offsets generated;

28 (B) the amount of discounts applied;

29 (C) an assessment of methods (and the appropriateness of those methods);

30 (D) an assessment of quantitative errors or omissions (and the effect of the
31 errors or omissions on offsets);

32 (E) any potential conflicts of interest between a verifier and project
33 developer; and

34 (F) any other provision that the Administrator considers to be necessary to
35 achieve the purposes of this subtitle.

36 (3) VERIFIER ACCREDITATION.—

37 (A) IN GENERAL.—Not later than 18 months after the date of enactment of

1 this Act, the Administrator shall promulgate regulations establishing a process
2 and requirements for accreditation by a third-party party verifier that has no
3 conflicts of interest.

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

8 (c) Registration and Awarding of Offsets.—

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

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

14 (B) notify the project developer of that determination.

15 (2) AFFIRMATIVE DETERMINATION.—In the case of an affirmative determination
16 under paragraph (1), the Administrator shall—

17 (A) register the offset allowances in accordance with this subtitle; and

18 (B) issue the offset allowances.

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

21 **SEC. 2406. TRACKING OF REVERSALS FOR**
22 **SEQUESTRATION PROJECTS.**

23 (a) Reversal Certification.—

24 (1) IN GENERAL.—Subject to section 2402, the Administrator shall promulgate
25 regulations requiring the submission of a reversal certification for each offset project
26 on an annual basis following the registration of offset allowances.

27 (2) REQUIREMENTS.—A reversal certification submitted in accordance with this
28 subsection shall state—

29 (A) whether any unmitigated reversal relating to the offset project has
30 occurred in the year preceding the year in which the certification is submitted;
31 and

32 (B) the quantity of each unmitigated reversal.

33 (b) Effect on Offset Allowances.—

34 (1) INVALIDITY.—The Administrator shall declare invalid all offset allowances
35 issued for any offset project that has undergone a complete reversal.

36 (2) PARTIAL REVERSAL.—In the case of an offset project that has undergone a
37 partial reversal, the Administrator shall render invalid offset allowances issued for
38 the offset project in direct proportion to the degree of reversal.

1 (c) Accountability for Reversals.—Liability and responsibility for compensation of a
2 reversal of a registered offset allowance under subsection (a) shall lie with the person that
3 submitted the offset allowance to the Administrator for the purpose of compliance with
4 section 1202(a), unless otherwise specified in a legally-binding contract or agreement.

5 (d) Compensation for Reversals.—The unmitigated reversal of 1 or more registered
6 offset allowances shall require the submission of—

7 (1) an equal number of offset allowances; or

8 (2) a combination of offset allowances and emission allowances equal to the
9 unmitigated reversal.

10 (e) Adjustment of Baseline.—

11 (1) IN GENERAL.—If the Administrator determines that, as a result of activities or
12 behavior that is inconsistent with the purposes of this subtitle, a significant deviation
13 exists between the average annual greenhouse gas flux or carbon stock for a given
14 year pursuant to the certification submitted under subsection (a), the baseline for that
15 project shall be adjusted by a quantity equal to the difference between—

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

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

20 (2) PROJECT TERMINATION.—A project developer may cease participation in the
21 domestic offset program established under this subtitle at any time, on the condition
22 that any registered allowances awarded for increases in sequestration have been
23 compensated for by the project developer through the submission of an equal
24 number of offset allowances.

25 SEC. 2407. EXAMINATIONS.

26 (a) Regulations.—Not later than 2 years after the date of enactment of this Act, the
27 Administrator shall promulgate regulations governing the examination and auditing of
28 offset allowances.

29 (b) Requirements.—The regulations promulgated under this section shall specifically
30 consider—

31 (1) principles for initiating and conducting examinations;

32 (2) the type or scope of examinations, including—

33 (A) reporting and recordkeeping; and

34 (B) site review or visitation;

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

36 (4) the establishment of an appeal process.

37 SEC. 2408. TIMING AND THE PROVISION OF

1 **OFFSET ALLOWANCES.**

2 (a) Initiation of Offset Projects.—An offset project that commences operation on or
3 after the effective date of regulations promulgated under section 2407(a) shall be eligible
4 to generate offset allowances under this subtitle if the offset project meets the other
5 applicable requirements of this subtitle.

6 (b) Pre-Existing Projects.—

7 (1) IN GENERAL.—The Administrator may allow for the transition into the
8 Registry of offset projects and banked offset allowances operating under other
9 Federal, State, or private reporting programs or registries as of the effective date of
10 regulations promulgated under section 2407(a) if the Administrator determines that
11 the offset projects and banked offset allowances satisfy the applicable requirements
12 of this subtitle.

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

16 **SEC. 2409. OFFSET REGISTRY.**

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

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

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

21 (3) subject to the requirements of this subtitle, any other information identified by
22 the Administrator as being necessary to achieve the purposes of this subtitle.

23 **SEC. 2410. ENVIRONMENTAL CONSIDERATIONS.**

24 (a) Coordination to Minimize Negative Effects.—In promulgating regulations under
25 this subtitle, the Administrator, in consultation with the Secretary of Agriculture, shall act
26 (including by rejecting projects, if necessary) to avoid or minimize, to the maximum
27 extent practicable, adverse effects on human health or the environment resulting from the
28 implementation of offset projects under this subtitle.

29 (b) Report on Positive Effects.—Not later than 2 years after the date of enactment of
30 this Act, the Administrator, in consultation with the Secretary of Agriculture, shall submit
31 to Congress a report detailing—

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

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

36 (c) Use of Native Plant Species in Offset Projects.—Not later than 18 months after the
37 date of enactment of this Act, the Administrator, in consultation with the Secretary of
38 Agriculture, shall promulgate regulations for the selection, use, and storage of native and

1 nonnative plant materials—

2 (1) to ensure native plant materials are given primary consideration, in accordance
3 with applicable Department of Agriculture guidance for use of native plant
4 materials;

5 (2) to prohibit the use of Federal- or State-designated noxious weeds; and

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

8 SEC. 2411. PROGRAM REVIEW.

9 Not later than 5 years after the date of enactment of this Act, and periodically
10 thereafter, the Administrator shall review and revise, as necessary, the regulations
11 promulgated under this subtitle.

12 Subtitle E—International Credits

13 SEC. 2501. USE OF INTERNATIONAL ALLOWANCES 14 OR CREDITS.

15 The owner or operator of a covered facility may satisfy up to 15 percent of the
16 allowance submission requirement of the covered facility under section 1202(a) by
17 submitting allowances or credits obtained on a foreign greenhouse gas emissions trading
18 market, on the condition that the Administrator has certified the market in accordance
19 with the regulations promulgated pursuant to section 2502(a).

20 SEC. 2502. REGULATIONS.

21 (a) In General.—Not later than 2 years after the date of enactment of this Act, the
22 Administrator shall promulgate regulations, taking into consideration protocols adopted
23 in accordance with the United Nations Framework Convention on Climate Change, done
24 at New York on May 9, 1992—

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

27 (2) permitting the use of international credits from the foreign country that issued
28 the credits.

29 (b) Requirements.—The regulations promulgated under subsection (a) shall require
30 that, in order to be approved for use under this subtitle—

31 (1) a credit shall have been issued by a foreign country pursuant to a
32 governmental program that imposes mandatory absolute tonnage limits on
33 greenhouse gas emissions from the foreign country, or 1 or more industry sectors in
34 that country, pursuant to protocols described in subsection (a); and

35 (2) the governmental program be of comparable stringency to the program
36 established by this Act, including comparable monitoring, compliance, and
37 enforcement.

1 **SEC. 2503. FACILITY CERTIFICATION.**

2 The owner or operator of a covered facility who submits an international allowance or
3 credit under this subtitle shall certify that the allowance or credit has not been retired
4 from use in the registry of the applicable foreign country.

5 **Subtitle F—Carbon Market Efficiency Board**

6 **SEC. 2601. PURPOSES.**

7 The purposes of this subtitle are—

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

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

13 **SEC. 2602. ESTABLISHMENT OF CARBON MARKET**
14 **EFFICIENCY BOARD.**

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

17 (b) Purposes.—The purposes of the Board are—

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

19 (2) to observe the national greenhouse gas emission market and evaluate periods
20 during which the cost of emission allowances provided under Federal law might
21 pose significant harm to the economy; and

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

23 (A) describing—

24 (i) the status of the emission allowance market established under this
25 Act;

26 (ii) the economic effects of the market, regional, industrial, and
27 consumer responses to the market;

28 (iii) where practicable, energy investment responses to the market;

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

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

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

35 (C) that are prepared independently by the Board.

1 (c) Membership.—

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

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

7 (A) ensure fair representation of the financial, agricultural, industrial, and
8 commercial sectors, and the geographical regions, of the United States, and
9 include a representative of consumer interests; and

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

11 (3) COMPENSATION.—

12 (A) IN GENERAL.—A member of the Board shall be compensated at a rate
13 equal to the daily equivalent of the annual rate of basic pay prescribed for level
14 II of the Executive Schedule under section 5313 of title 5, United States Code,
15 for each day (including travel time) during which the member is engaged in the
16 performance of the duties of the Board.

17 (B) CHAIRPERSON.—The Chairperson of the Board shall be compensated at a
18 rate equal to the daily equivalent of the annual rate of basic pay prescribed for
19 level I of the Executive Schedule under section 5312 of title 5, United States
20 Code, for each day (including travel time) during which the member is engaged
21 in the performance of the duties of the Board.

22 (4) PROHIBITIONS.—

23 (A) CONFLICTS OF INTEREST.—An individual employed by, or holding any
24 official relationship (including any shareholder) with, any entity engaged in the
25 generation, transmission, distribution, or sale of energy, an individual who has
26 any pecuniary interest in the generation, transmission, distribution, or sale of
27 energy, or an individual who has a pecuniary interest in the implementation of
28 this Act, shall not be appointed to the Board under this subsection.

29 (B) NO OTHER EMPLOYMENT.—A member of the Board shall not hold any
30 other employment during the term of service of the member.

31 (d) Term; Vacancies.—

32 (1) TERM.—

33 (A) IN GENERAL.—The term of a member of the Board shall be 14 years,
34 except that the members first appointed to the Board shall be appointed for
35 terms in a manner that ensures that—

36 (i) the term of not more than 1 member shall expire during any 2-year
37 period; and

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

39 (B) OATH OF OFFICE.—A member shall take the oath of office of the Board
40 by not later than 15 days after the date on which the member is appointed under

1 subsection (c)(1).

2 (C) REMOVAL.—

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

5 (ii) NOTIFICATION.—The President shall submit to Congress a
6 notification of any determination by the President to remove a member of
7 the Board for cause under clause (i).

8 (2) VACANCIES.—

9 (A) IN GENERAL.—A vacancy on the Board—

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

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

13 (B) SERVICE UNTIL NEW APPOINTMENT.—A member of the Board the term of
14 whom has expired or otherwise been terminated shall continue to serve until the
15 date on which a replacement is appointed under subparagraph (A)(ii), if the
16 President determines that service to be appropriate.

17 (e) Chairperson and Vice-Chairperson.—Of members of the Board, the President shall
18 appoint—

19 (1) 1 member to serve as Chairperson of the Board for a term of 4 years; and

20 (2) 1 member to serve as Vice-Chairperson of the Board for a term of 4 years.

21 (f) Meetings.—

22 (1) INITIAL MEETING.—The Board shall hold the initial meeting of the Board as
23 soon as practicable after the date on which all members have been appointed to the
24 Board under subsection (c)(1).

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

26 (A) the Chairperson;

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

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

30 (3) QUORUM.—Four members of the Board shall constitute a quorum for a
31 meeting of the Board.

32 (4) OPEN MEETINGS.—The Board shall be subject to section 552b of title 5, United
33 States Code (commonly known as the “Government in the Sunshine Act”).

34 SEC. 2603. DUTIES.

35 (a) Information Gathering.—

36 (1) AUTHORITY.—The Board shall collect and analyze relevant market

1 information to promote a full understanding of the dynamics of the emission
2 allowance market established under this Act.

3 (2) INFORMATION.—The Board shall gather such information as the Board
4 determines to be appropriate regarding the status of the market, including
5 information relating to—

6 (A) emission allowance allocation and availability;

7 (B) the price of emission allowances;

8 (C) macro- and micro-economic effects of unexpected significant increases
9 in emission allowance prices, or shifts in the emission allowance market,
10 should those increases or shifts occur;

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

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

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

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

21 (b) Treatment as Primary Activity.—

22 (1) IN GENERAL.—During the initial 2-year period of operation of the Board,
23 information gathering under subsection (a) shall be the primary activity of the
24 Board.

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

28 (c) Study.—

29 (1) IN GENERAL.—During the 2-year period beginning on the date on which the
30 emission allowance market established under this Act begins operation, the Board
31 shall conduct a study of other markets for tradeable permits to emit covered
32 greenhouse gases.

33 (2) REPORT.—Not later than 180 days after the beginning of the period described
34 in paragraph (1), the Board shall submit to Congress a report describing the status of
35 the market, specifically with respect to volatility within the market and the average
36 price of emission allowances during that 180-day period.

37 (d) Employment of Cost Relief Measures.—

38 (1) IN GENERAL.—If the Board determines that the emission allowance market
39 established under this Act poses a significant harm to the economy of the United
40 States, the Board shall carry out such cost relief measures relating to that market as

1 the Board determines to be appropriate under section 2604(a).

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

7 (A) increase the quantity of emission allowances that covered facilities may
8 borrow from the prescribed allocations of the covered facilities for future years;
9 and

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

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

13 (e) Reports.—The Board shall submit to the President and Congress quarterly
14 reports—

15 (1) describing the status of the emission allowance market established under this
16 Act, the economic effects of the market, regional, industrial, and consumer
17 responses to the market, energy investment responses to the market, any corrective
18 measures that should be carried out to relieve excessive costs of the market, and
19 plans to compensate for those measures; and

20 (2) that are prepared independently by the Board, and not in partnership with
21 Federal agencies.

22 SEC. 2604. POWERS.

23 (a) Cost Relief Measures.—

24 (1) IN GENERAL.—Beginning on the day after the date of expiration of the 2-year
25 period described in section 2603(b), the Board may carry out 1 or more of the
26 following cost relief measures to ensure functioning, stable, and efficient markets
27 for emission allowances:

28 (A) Increase the quantity of emission allowances that covered facilities may
29 borrow from the prescribed allocations of the covered facilities for future years.

30 (B) Expand the period during which a covered facility may repay the
31 Administrator for an emission allowance as described in subparagraph (A).

32 (C) Lower the interest rate at which an emission allowance may be borrowed
33 as described in subparagraph (A).

34 (D) Increase the quantity of allowances or credits obtained on a foreign
35 greenhouse gas emissions trading market that the owner or operator of any
36 covered facility may use to satisfy the allowance submission requirement of the
37 covered facility under section 1202(a), on the condition that the Administrator
38 has certified the market in accordance with the regulations promulgated
39 pursuant to section 2502(a).

1 (E) Increase the quantity of offset allowances generated in accordance with
2 subtitle D that the owner or operator of any covered facility may use to satisfy
3 the total allowance submission requirement of the covered facility under
4 section 1202(a).

5 (F) Expand the total quantity of emission allowances made available to all
6 covered facilities at any given time by borrowing against the total allowable
7 quantity of emission allowances to be provided for future years.

8 (2) SUBSEQUENT ACTIONS.—On determination by the Board to carry out a cost
9 relief measure pursuant to paragraph (1), the Board shall—

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

12 (B) exercise the cost relief measure incrementally, and only as needed to
13 avoid significant economic harm during the applicable allocation year;

14 (C) specify the terms of the relief to be achieved using the cost relief
15 measure, including requirements for entity-level or national market-level
16 compensation to be achieved by a specific date or within a specific time period;

17 (D) in accordance with section 2603(e), submit to the President and Congress
18 a report describing the actions carried out by the Board and recommendations
19 for the terms under which the cost relief measure should be authorized by
20 Congress and carried out by Federal entities; and

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

24 (3) ACTION ON EXPANSION OF BORROWING.—

25 (A) IN GENERAL.—If the Board carries out a cost relief measure pursuant to
26 paragraph (1) that results in the expansion of borrowing of emission allowances
27 under this Act, and if the average daily closing price of emission allowances for
28 the 180-day period beginning on the date on which borrowing is so expanded
29 exceeds the upper range of the estimate provided under section 2605, the Board
30 shall increase the quantity of emission allowances available for the applicable
31 allocation year in accordance with this paragraph.

32 (B) REQUIREMENTS.—An increase in the quantity of emission allowances
33 under subparagraph (A) shall—

34 (i) apply to all covered facilities;

35 (ii) be allocated in accordance with the applicable formulas and
36 procedures established under this Act;

37 (iii) be equal to not more than 5 percent of the total quantity of emission
38 allowances otherwise available for the applicable allocation year under
39 this Act;

40 (iv) remain in effect only for the applicable allocation year;

1 (v) specify the date by which the increase shall be repaid by covered
2 facilities through a proportionate reduction of emission allowances
3 available for subsequent allocation years; and

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

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

12 (c) Limitations.—Nothing in this section gives the Board the authority—

13 (1) to consider or prescribe entity-level petitions for relief from the costs of an
14 emission allowance allocation or trading program established under Federal law;

15 (2) to carry out any investigative or punitive process under the jurisdiction of any
16 Federal or State court;

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

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

21 **SEC. 2605. ESTIMATE OF COSTS TO ECONOMY OF** 22 **LIMITING GREENHOUSE GAS EMISSIONS.**

23 Not later than July 1, 2014, the Director of the Congressional Budget Office, using
24 economic and scientific analyses, shall submit to Congress a report that describes—

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

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

29 **TITLE III—ALLOCATING AND DISTRIBUTING** 30 **ALLOWANCES**

31 **Subtitle A—Early Auctions**

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

33 Not later than 180 days after the date of enactment of this Act, the Administrator shall
34 allocate 6 percent of the emission allowances established for calendar year 2012, 4
35 percent of the emission allowances established for calendar year 2013, and 2 percent of
36 the emissions established for calendar 2014, to the Corporation for early auctioning in
37 accordance with section 4301.

1 Subtitle B—Annual Auctions

2 SEC. 3201. ALLOCATION FOR ANNUAL AUCTIONS.

3 Not later than January 1, 2012, and annually thereafter through January 1, 2050, the
4 Administrator shall allocate to the Corporation a percentage of emission allowances for
5 that calendar year, for annual auctioning, as follows:
6

Calendar Year	Percentage of Emissions Allowance Account Allocated to the Climate Change Credit Corporation
2012	18%
2013	21%
2014	24%
2015	27%
2016	28%
2017	31%
2018	33%
2019	35%
2020	37%
2021	39%
2022	41%
2023	43%
2024	45%
2025	47%
2026	49%
2027	51%
2028	53%
2029	55%
2030	57%
2031	59%
2032	61%
2033	63%
2034	65%
2035	67%
2036	73%
2037	73%
2038	73%
2039	73%
2040	73%
2041	73%
2042	73%
2043	73%
2044	73%
2045	73%

2046	73%
2047	73%
2048	73%
2049	73%
2050	73%

1

2 **Subtitle C—Early Action**

3 **SEC. 3301. ALLOCATION.**

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

- 8 (1) 5 percent of the emission allowances established for calendar year 2012;
- 9 (2) 4 percent of the emission allowances established for calendar year 2013;
- 10 (3) 3 percent of the emission allowances established for calendar year 2014;
- 11 (4) 2 percent of the emission allowances established for calendar year 2015; and
- 12 (5) 1 percent of the emission allowances established for calendar year 2016.

13 **SEC. 3302. DISTRIBUTION.**

14 (a) In General.—Not later than 1 year after the date of enactment of this Act, the
15 Administrator shall establish, by regulation, procedures and standards for use in
16 distributing, to owners and operators of covered facilities, emission allowances allocated
17 under section 3301.

18 (b) Consideration.—The procedures and standards established under subsection (a)
19 shall provide for consideration of verified and credible emission reductions registered
20 before the date of enactment of this Act under—

- 21 (1) the Climate Leaders Program, or any other voluntary greenhouse gas reduction
22 program of the United States Environmental Protection Agency and United States
23 Department of Energy;
- 24 (2) the Voluntary Reporting of Greenhouse Gases Program of the Energy
25 Information Administration;
- 26 (3) State or regional greenhouse gas emission reduction programs that include
27 systems for tracking and verifying the greenhouse gas emission reductions; and
- 28 (4) voluntary entity programs that resulted in entity-wide reductions in
29 greenhouse gas emissions.

30 (c) Distribution.—Not later than 4 years after the date of enactment of this Act, the
31 Administrator shall distribute all emission allowances allocated under section 3301.

32 **Subtitle D—States**

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

2 (a) Allocation.—Not later than January 1, 2012, and annually thereafter through
3 January 1, 2050, the Administrator shall allocate 1 percent of the Emission Allowance
4 Account among States that—

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

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

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

16 (2) have adopted, or whose political subdivisions have adopted, regulations by not
17 later than the date on which allocations are made, that are as stringent as, or more
18 stringent than, the most recent energy performance requirements of ASHRAE 90.1
19 and the International Energy Conservation Code for new buildings.

20 (b) Allocation for Building Efficiency.—Not later than January 1, 2012, and annually
21 thereafter through January 1, 2050, the Administrator shall allocate 1 percent of the
22 Emission Allowance Account among States that are in compliance with section 304(c)(3)
23 of the Energy Conservation and Production Act (as amended by section 5201).

24 (c) Distribution.—Not later than 2 years after the date of enactment of this Act, the
25 Administrator shall establish procedures and standards for the distribution of emission
26 allowances to States in accordance with subsections (a) and (b).

27 (d) Use.—Any State receiving emission allowances under this section shall retire or
28 use in one or more of the ways enumerated in paragraph (1) of subsection 3403(c) not
29 less than 90 percent of the emission allowances allocated to the State (or proceeds of sale
30 of those allowances) under this section for that calendar year.

31 **SEC. 3402. ALLOCATION FOR STATES WITH**
32 **PROGRAMS THAT EXCEED FEDERAL EMISSION**
33 **REDUCTION TARGETS.**

34 (a) Allocation.—Not later than January 1, 2012, and annually thereafter through
35 January 1, 2050, the Administrator shall allocate 2 percent of the Emission Allowance
36 Account for the year among States that have—

37 (1) before the date of enactment of this Act, enacted statewide greenhouse gas
38 emission reduction targets that are more stringent than the nationwide targets
39 established under title II; and

1 (2) by the time of an allocation under this subsection, imposed on covered
2 facilities within the States aggregate greenhouse gas emission limitations more
3 stringent than those imposed on covered facilities under title II.

4 (b) Distribution.—Not later than 2 years after the date of enactment of this Act, the
5 Administrator shall establish procedures and standards for use in distributing emission
6 allowances among States in accordance with subsection (a).

7 (c) Use.—Any State receiving emission allowances under this section shall retire or
8 use in one or more of the ways enumerated in paragraph (1) of subsection 3403(c) not
9 less than 90 percent of the emission allowances allocated to the State (or proceeds of sale
10 of those allowances) under this section for that calendar year.

11 12 SEC. 3403. GENERAL ALLOCATION.

13 (a) Allocation.—Subject to subsection (d)(3), not later than January 1, 2012, and
14 annually thereafter through January 1, 2050, the Administrator shall allocate 5 percent of
15 the Emission Allowance Account for the year among States.

16 (b) Distribution.—The allowances available for allocation to States under subsection
17 (a) for a calendar year shall be distributed as follows:

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

21 (A) the expenditures of a State for the low-income home energy assistance
22 program established under the Low-Income Home Energy Assistance Act of
23 1981 (42 U.S.C. 8621 et seq.) for the preceding calendar year; bears to

24 (B) the expenditures of all States for that program for the preceding calendar
25 year.

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

29 (A) the population of a State, as determined by the most recent decennial
30 census preceding the calendar year for which the allocation regulations are for
31 the allocation year; bears to

32 (B) the population of all States, as determined by that census.

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

36 (A) the quantity of carbon dioxide that would be emitted assuming that all of
37 the coal that is mined, natural gas that is processed, and petroleum that is
38 refined within the boundaries of a State during the preceding year is completely
39 combusted and that none of the carbon dioxide emissions are captured, as
40 determined by the Secretary of Energy; bears to

1 (B) the aggregate quantity of carbon dioxide that would be emitted assuming
2 that all of the coal that is mined, natural gas that is processed, and petroleum
3 that is refined in all States for the preceding year is completely combusted and
4 that none of the carbon dioxide emissions are captured, as determined by the
5 Secretary of Energy.

6 (c) Use.—

7 (1) During any calendar year, a State shall retire or use in one or more of the
8 following ways not less than 90 percent of the emission allowances allocated to the
9 State (or proceeds of sale of those emission allowances) under this section for that
10 calendar year:

11 (A) to mitigate impacts on low-income energy consumers;

12 (B) to promote energy efficiency (including support of electricity and natural
13 gas demand reduction, waste minimization, and recycling programs);

14 (C) to promote investment in nonemitting electricity generation technology;

15 (D) to improve public transportation and passenger rail service and otherwise
16 promote reductions in vehicle miles traveled;

17 (E) to encourage advances in energy technology that reduce or sequester
18 greenhouse gas emissions;

19 (F) to address local or regional impacts of climate change, including the
20 relocation of communities displaced by the impacts of climate change;

21 (G) to mitigate obstacles to investment by new entrants in electricity
22 generation markets and energy-intensive manufacturing sectors;

23 (H) to address local or regional impacts of climate change policy, including
24 providing assistance to displaced workers;

25 (I) to mitigate impacts on energy-intensive industries in internationally
26 competitive markets;

27 (J) to reduce hazardous fuels, and to prevent and suppress wildland fire; or

28 (K) to fund rural, municipal, and agricultural water projects that are
29 consistent with the sustainable use of water resources.

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

33 (3) RETURN OF ALLOWANCES.—Not later than 330 days before the beginning of
34 each allowance allocation year, a State shall return to the Administrator any
35 allowances not distributed by the deadline under paragraph (2).

36 (d) Program for Tribal Communities.—

37 (1) ESTABLISHMENT.—Not later than 3 years after the date of enactment of this
38 Act, the Administrator, in consultation with the Secretary of the Interior, shall by
39 regulation establish a program for tribal communities—

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

4 (B) under which the Administrator shall distribute 0.5 percent of the
5 Emission Allowance Account for each calendar among tribal governments of
6 the tribal communities described in subparagraph (A).

7 (2) ALLOCATION.—Beginning in the first calendar year that begins after
8 promulgation of the regulations referred to in paragraph (1), and annually thereafter
9 until calendar year 2050, the Administrator shall allocate 0.5 percent of the Emission
10 Allowance Account for each calendar year to the program established under
11 paragraph (1).

12 (3) ALLOCATIONS TO STATES.—For each calendar year for which the
13 Administrator allocates 0.5 percent of the Emission Allowance Account to the
14 program established under paragraph (1), the general allocation for States under
15 subsection (a) shall be 4.5 percent of the Emission Allowance Account.

16 Subtitle E—Electricity Consumers

17 SEC. 3501. ALLOCATION.

18 Not later than April 1, 2012, and annually thereafter through January 1, 2050, the
19 Administrator shall allocate among load-serving entities 10 percent of the Emission
20 Allowance Account for the year.

21 SEC. 3502. DISTRIBUTION.

22 (a) In General.—For each calendar year, the emission allowances allocated under
23 section 3501 shall be distributed by the Administrator to each load-serving entity based
24 on the proportion that—

25 (1) the quantity of electricity delivered by the load-serving entity during the 3
26 calendar years preceding the calendar year for which the emission allowances are
27 distributed, adjusted upward for electricity not delivered as a result of consumer
28 energy-efficiency programs implemented by the load-serving entity and verified by
29 the regulatory agency of the load-serving entity; bears to

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

32 (b) Basis.—The Administrator shall base the determination of the quantity of
33 electricity delivered by a load-serving entity for the purpose of subsection (a) on the most
34 recent data available in annual reports filed with the Energy Information Administration
35 of the Department of Energy

36 SEC. 3503. USE.

37 (a) In General.—Any load-serving entity that accepts emission allowances distributed
38 under section 3502 shall—

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

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

5 (b) Proceeds.—All proceeds from the sale of emission allowances under subsection (a)
6 shall be used solely—

7 (1) to mitigate economic impacts on low- and middle-income energy consumers,
8 including by reducing transmission charges or issuing rebates; and

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

10 (c) Inclusion in Retail Rates.—To facilitate the prompt pass-through of the benefits
11 from the sale of emission allowances to retail customers—

12 (1) any credit from the sale of allowances shall be reflected in the retail rates of a
13 load-serving entity not later than 90 days after the sale of the allowances;

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

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

18 (d) Prohibition on Rebates.—No load-serving entity may use any proceeds from the
19 sale of emission allowances under subsection (a) to provide to any consumer a rebate that
20 is based on the quantity of electricity used by the consumer.

21 **SEC. 3504. REPORTING.**

22 (a) In General.—Each load-serving entity that accepts emission allowances distributed
23 under section 3502 shall, for each calendar year for which the load-serving entity accepts
24 emission allowances, submit to the Administrator a report describing—

25 (1) the date of each sale of each emission allowance during the preceding year;

26 (2) the amount of revenue generated from the sale of emission allowances during
27 the preceding year; and

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

30 (b) Availability of Reports.—The Administrator shall make available to the public all
31 reports submitted by any load-serving entity under subsection (b), including by
32 publishing those reports on the Internet.

33 **Subtitle F—Bonus Allowances for Carbon Capture and** 34 **Geological Sequestration**

35 **SEC. 3601. ALLOCATION.**

36 (a) In General.—Not later than 3 years after the date of enactment of this Act, the
37 Administrator shall—

- 1 (1) establish a Bonus Allowance Account; and
2 (2) allocate 4 percent of the emission allowances established for calendar years
3 2012 through 2035 to the Bonus Allowance Account.

4 (b) Initial Number of Allowances.—As of January 1, 2012, there shall be
5 3,932,160,000 emission allowances in the Bonus Allowance Account.

6 SEC. 3602. QUALIFYING PROJECTS.

7 To be eligible to receive emission allowances under this subtitle, a carbon capture and
8 sequestration project shall—

9 (1) comply with such criteria and procedures as the Administrator may establish,
10 including a requirement for a minimum of an 85-percent capture rate for carbon
11 dioxide emissions on an annual basis from any unit for which allowances are
12 allocated;

13 (2) sequester in a geological formation permitted by the Administrator for that
14 purpose in accordance with regulations promulgated under section 1412(b)(6) of the
15 Safe Drinking Water Act (42 U.S.C. 300g—1(b)(16)) carbon dioxide resulting from
16 electric power generation; and

17 (3) have begun operation during the period beginning on January 1, 2008, and
18 ending on December 31, 2035.

19 SEC. 3603. DISTRIBUTION.

20 Subject to section 3604, for each of calendar years 2012 through 2039, the
21 Administrator shall distribute emission allowances from the Bonus Allowance Account to
22 each qualifying project under this subtitle in a quantity equal to the product obtained by
23 multiplying the number of metric tons of carbon dioxide geologically sequestered by the
24 project and the bonus allowance rate for that calendar year, as provided in the following
25 table:
26

Calendar Year	Bonus Allowance Rate
2012	4.5
2013	4.5
2014	4.5
2015	4.5
2016	4.5
2017	4.5
2018	4.2
2019	3.9
2020	3.6
2021	3.3
2022	3.0
2023	2.7
2024	2.4
2025	2.1

2026	1.8
2027	1.5
2028	1.3
2029	1.1
2030	0.9
2031	0.7
2032	0.5
2033	0.5
2034	0.5
2035	0.5
2036	0.5
2037	0.5
2038	0.5
2039	0.5

1

2 **SEC. 3604. 10-YEAR LIMIT.**

3 A qualifying project may receive annual emission allowances under this subsection
4 only for—

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

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

8 **SEC. 3605. EXHAUSTION OF BONUS ALLOWANCE**
9 **ACCOUNT.**

10 If, at the beginning of a calendar year, the Administrator determines that the number of
11 emission allowances remaining in the Bonus Allowance Account will be insufficient to
12 allow the distribution, in that calendar year, of the number of allowances that otherwise
13 would be distributed under section 3603 for the calendar year, the Administrator shall, for
14 the calendar year—

15 (1) distribute the remaining bonus allowances only to qualifying projects that
16 were already qualifying projects during the preceding calendar year;

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

19 (3) discontinue the program established under this subtitle as of the date on which
20 the Bonus Allowance Account is projected to be fully used based on projects already
21 in operation.

22 **Subtitle G—Domestic Agriculture and Forestry**

23 **SEC. 3701. ALLOCATION.**

24 Not later than January 1, 2012, and annually thereafter through January 1, 2050, the

- 1 Administrator shall allocate to the Secretary of Agriculture 5 percent of the Emission
2 Allowance Account for the calendar year for use in—
- 3 (1) reducing greenhouse gas emissions from the agriculture and forestry sectors of
4 the United States economy; and
 - 5 (2) increasing greenhouse gas sequestration from those sectors.

6 **SEC. 3702. AGRICULTURAL AND FORESTRY**
7 **GREENHOUSE GAS MANAGEMENT RESEARCH.**

8 (a) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary
9 of Agriculture, in consultation with scientific and agricultural and forestry experts, shall
10 prepare and submit to Congress a report that describes the status of research on
11 agricultural and forestry greenhouse gas management, including a description of—

- 12 (1) research on soil carbon sequestration and other agricultural and forestry
13 greenhouse gas management that has been carried out;
- 14 (2) any additional research that is necessary;
- 15 (3) the proposed priority for additional research;
- 16 (4) the most appropriate approaches for conducting the additional research; and
- 17 (5) the manner in which carbon credits that are specific to agricultural and
18 forestry operations should be valued and allotted.

19 (b) Standardized System of Soil Carbon Measurement and Certification for the
20 Agricultural and Forestry Sectors.—

21 (1) IN GENERAL.—As soon as practicable after the date of enactment of this Act,
22 the Secretary of Agriculture shall establish a standardized system of carbon
23 measurement and certification for the agricultural and forestry sectors.

24 (2) ADMINISTRATION.—In establishing the system, the Secretary of Agriculture
25 shall—

- 26 (A) create a standardized system of measurements for agricultural and
27 forestry greenhouse gases; and
- 28 (B) delineate the most appropriate system of certification of credit by public
29 or private entities.

30 (c) Research.—After the date of submission of the report described in paragraph (1),
31 the President and the Secretary of Agriculture (in collaboration with the member
32 institutions of higher education of the Consortium for Agricultural Soil Mitigation of
33 Greenhouse Gases, institutions of higher education, and research entities) shall initiate a
34 program to conduct any additional research that is necessary.

35 **SEC. 3703. DISTRIBUTION.**

36 Taking into account the report prepared under subsection 3702(a), the Secretary of
37 Agriculture shall establish, by regulation, a program under which agricultural and
38 forestry sequestration allowances may be distributed to entities that carry out

1 sequestration projects on agricultural and forest land that achieve long-term greenhouse
2 gas emission mitigation benefits.

3 Subtitle H—International Forest Protection

4 SEC. 3801. FINDINGS.

5 Congress finds that—

6 (1) land-use change and forest sector emissions account for approximately 20
7 percent of global greenhouse gas emissions;

8 (2) land conversion and deforestation are 2 of the largest sources of greenhouse
9 gas emissions in the developing world, amounting to roughly 40 percent of the total
10 greenhouse gas emissions of the developing world;

11 (3) with sufficient data, deforestation rates and forest carbon stocks can be
12 measured with an acceptable level of uncertainty; and

13 (4) encouraging reduced deforestation and other forest carbon activities in other
14 countries can—

15 (A) provide critical leverage to encourage voluntary developing country
16 participation in emission limitation regimes;

17 (B) facilitate greater overall reductions in greenhouse gas emissions than
18 would otherwise be practicable; and

19 (C) substantially benefit biodiversity, conservation, and indigenous and other
20 forest-dependent people in developing countries.

21 SEC. 3802. DEFINITION OF FOREST CARBON 22 ACTIVITIES.

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

24 (1) activities directed at reducing greenhouse gas emissions from deforestation
25 and forest degradation in countries other than the United States; and

26 (2) activities directed at increasing sequestration of carbon through restoration of
27 forests, and degraded land in countries other than the United States that has not been
28 forested prior to restoration, afforestation, and improved forest management, that
29 meet the eligibility requirements promulgated under section 3804(a).

30 SEC. 3803. ALLOCATION.

31 Not later than January 1, 2012, and annually thereafter through January 1, 2050, the
32 Administrator shall allocate and distribute 3 percent of the Emission Allowance Account
33 for the calendar year for use in carrying out forest carbon activities in countries other than
34 the United States.

35 SEC. 3804. DEFINITION AND ELIGIBILITY 36 REQUIREMENTS.

1 (a) Eligibility Requirements for Forest Carbon Activities.—Not later than 2 years after
2 the date of enactment of this Act, the Administrator, in consultation with the Secretary of
3 the Interior, the Secretary of State, and the Secretary of Agriculture, shall promulgate
4 eligibility requirements for forest carbon activities directed at sequestration of carbon
5 through restoration of forests and degraded land, afforestation, and improved forest
6 management in countries other than the United States, including requirements that those
7 activities be—

8 (1) carried out and managed in accordance with widely-accepted environmentally
9 sustainable forestry practices; and

10 (2) designed—

11 (A) to promote native species and restoration of native forests, where
12 practicable; and

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

14 (b) Quality Criteria for Forest Carbon Allocations.—Not later than 2 years after the
15 date of enactment of this Act, the Administrator, in consultation with the Secretary of the
16 Interior, the Secretary of State, and the Secretary of Agriculture, shall promulgate
17 regulations establishing the requirements for eligibility to receive allowances under this
18 section, including requirements that ensure that the emission reductions or sequestrations
19 are real, permanent, additional, and verifiable, with reliable measuring and monitoring
20 and appropriate accounting for leakage.

21 SEC. 3805. INTERNATIONAL FOREST CARBON 22 ACTIVITIES.

23 (a) In General.—The Administrator, in consultation with the Secretary of State, shall
24 identify and periodically update a list of countries that have—

25 (1) demonstrated capacity to participate in international forest carbon activities,
26 including—

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

28 (B) technical capacity to monitor and measure forest carbon fluxes with an
29 acceptable level of uncertainty; and

30 (C) institutional capacity to reduce emissions from deforestation and
31 degradation;

32 (2) capped greenhouse gas emissions or otherwise established a national emission
33 reference scenario based on historical data; and

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

35 (b) Crediting and Additionality.—

36 (1) REDUCTION IN DEFORESTATION AND FOREST DEGRADATION.—A verified
37 reduction in greenhouse gas emissions from deforestation and forest degradation
38 under a cap or from a nationwide emissions reference scenario described in
39 subsection (a) shall be—

- 1 (A) eligible for crediting; and
- 2 (B) considered to satisfy the additionality criterion.

3 (2) PERIODIC REVIEW OF NATIONAL LEVEL REDUCTIONS IN DEFORESTATION AND
4 DEGRADATION.—The Administrator, in consultation with the Secretary of State,
5 shall identify and periodically update a list of countries described in subsection (a)
6 that have—

7 (A) achieved national-level reductions of deforestation and degradation
8 below a historical reference scenario, taking into consideration the average
9 annual deforestation and degradation rates of the country and of all countries
10 during a period of at least 5 years; and

11 (B) demonstrated those reductions using remote sensing technology that
12 meets international standards.

13 (3) OTHER FOREST CARBON ACTIVITIES.—A forest carbon activity, other than a
14 reduction in deforestation or forest degradation, shall be eligible for crediting,
15 subject to the quality criteria for forest carbon credits identified in this Act or in
16 regulations promulgated under this Act.

17 (c) Recognition of Credits.—With respect to countries other than countries described
18 in subsection (a), the Administrator—

19 (1) shall recognize credits from forest carbon activities, subject to the quality
20 criteria for forest carbon credits identified in this Act and regulations promulgated
21 under this Act; and

22 (2) is encouraged to identify other incentives, including economic and market-
23 based incentives, to encourage developing countries with largely-intact native
24 forests to protect those forests.

25 SEC. 3806. REVIEWS AND DISCOUNT.

26 (a) Reviews.—Not later than 3 years after the date of enactment of this Act, and 5
27 years thereafter, the Administrator shall conduct a review of the credit program under this
28 subtitle.

29 (b) Discount.—If, after the date that is 10 years after the date of enactment of this Act,
30 the Administrator determines that foreign countries that, in the aggregate, generate
31 greenhouse gas emissions accounting for more than 0.5 percent of global greenhouse gas
32 emissions have not capped those emissions, established emissions reference scenarios
33 based on historical data, or otherwise reduced total forest emissions, the Administrator
34 may apply a discount to forest carbon credits imported into the United States from those
35 countries.

36 Subtitle I—Covered Facilities

37 SEC. 3901. ALLOCATION.

38 Not later than April 1, 2012, and annually thereafter through January 1, 2035, the
39 Administrator shall allocate percentages of the Emission Allowance Account for the

1 calendar year to owners or operators of covered facilities within the electric power sector
2 and the industrial sector, as follows:
3

Calendar Year	Percentage of Emissions Allowance Account Allocated to the Electric Power Sector	Percentage of Emissions Allowance Account Allocated to the Industrial Sector
2012	20%	20%
2013	20%	20%
2014	20%	20%
2015	20%	20%
2016	20%	20%
2017	19%	19%
2018	18%	18%
2019	17%	17%
2020	16%	16%
2021	15%	15%
2022	14%	14%
2023	13%	13%
2024	12%	12%
2025	11%	11%
2026	10%	10%
2027	9%	9%
2028	8%	8%
2029	7%	7%
2030	6%	6%
2031	5%	5%
2032	4%	4%
2033	3%	3%
2034	2%	2%
2035	1%	1%

4 **SEC. 3902. DISTRIBUTION SYSTEM.**

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

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

10 (a) New Entrants.—

11 (1) IN GENERAL.—As part of the system established under section 3902, the
12 Administrator shall, for each calendar year, set aside, from the quantity of emission
13 allowances represented by the percentages described in the table contained in
14 section 3901 for the electric power sector, a quantity of emission allowances for
15 distribution to new entrant covered electric power sector facilities.

1 (2) CALCULATION OF ALLOWANCES.—The quantity of emission allowances
2 distributed by the Administrator for a calendar year to a new covered electric power
3 sector facility under paragraph (1) shall be equal to the product obtained by
4 multiplying—

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

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

11 (b) Facilities Owned by a Rural Electric Cooperative.—

12 (1) IN GENERAL.—As part of the system established under section 3902, the
13 Administrator shall, for each calendar year, set aside, from the quantity of emission
14 allowances represented by the percentages described in the table contained in
15 section 3901 for the electric power sector, a quantity of emission allowances for
16 distribution to covered electric power sector facilities that are owned or operated by
17 a rural electric cooperative.

18 (2) CALCULATION OF ALLOWANCES.—The quantity of emission allowances
19 distributed by the Administrator in a calendar year under paragraph (1) to a covered
20 electric power sector facility that is owned or operated by a rural electric cooperative
21 shall be equal to the quantity of carbon dioxide equivalents that the covered electric
22 power sector facility emitted during calendar year 2006.

23 (c) Incumbents.—

24 (1) IN GENERAL.—As part of the system established under section 3902, the
25 Administrator shall, for each calendar year, distribute to covered electric power
26 sector facilities (other than facilities owned or operated by a rural electric
27 cooperative) that were operating during the calendar year preceding the year in
28 which this Act was enacted the emission allowances represented by the percentages
29 described in the table contained in section 3901 for the electric power sector that
30 remain after the distribution of emission allowances under subsections (a) and (b).

31 (2) CALCULATION OF ALLOWANCES.—The quantity of emission allowances
32 distributed to a covered electric power sector facility under paragraph (1) shall be
33 equal to the product obtained by multiplying—

34 (A) the quantity of emission allowances available for distribution under
35 paragraph (1); and

36 (B) the quotient obtained by dividing—

37 (i) the annual average quantity of carbon dioxide equivalents emitted by
38 the covered electric power sector facility during the 3 calendar years
39 preceding the date of enactment of this Act; by

40 (ii) the annual average of the aggregate quantity of carbon dioxide
41 equivalents emitted by all covered electric power sector facilities during

1 those 3 calendar years.

2 **SEC. 3904. DISTRIBUTING EMISSION ALLOWANCES**
3 **WITHIN THE INDUSTRIAL SECTOR.**

4 (a) New Entrants.—

5 (1) IN GENERAL.—As part of the system established under section 3902, the
6 Administrator shall, for each calendar year, set aside, from the quantity of emission
7 allowances represented by the percentages described in the table contained in
8 section 3901 for the industrial sector, a quantity of emission allowances for
9 distribution to new entrant covered industrial sector facilities.

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

14 (b) Incumbents.—

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

21 (2) CALCULATION OF ALLOWANCES.—The quantity of emission allowances
22 distributed to a covered industrial sector facility under paragraph (1) shall be equal
23 to the product obtained by multiplying—

24 (A) the quantity of emission allowances available for distribution under
25 paragraph (1); and

26 (B) the quotient obtained by dividing—

27 (i) the annual average quantity of carbon dioxide equivalents emitted by
28 the covered industrial sector facility during the 3 calendar years preceding
29 the date of enactment of this Act; by

30 (ii) the annual average of the aggregate quantity of carbon dioxide
31 equivalents emitted by all covered industrial sector facilities during those
32 3 calendar years.

33 (c) Revocation of Distribution Upon Facility Shutdown.—If a covered facility within
34 the industrial sector receives a distribution of emission allowances under this section for a
35 calendar year and is subsequently permanently shut down during that calendar year, the
36 owner or operator of the facility shall promptly return to the Administrator a number of
37 emission allowances equal to the difference between—

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

1 (2) the number of emission allowances distributed to the facility by the
2 Administrator for that calendar year.

3 **TITLE IV—AUCTIONS AND USES OF AUCTION**
4 **PROCEEDS**

5 **Subtitle A—Funds**

6 **SEC. 4101. ESTABLISHMENT.**

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

8 (1) The Energy Assistance Fund.

9 (2) The Climate Change Worker Training Fund.

10 (3) The Adaptation Fund.

11 (4) The Climate Change and National Security Fund

12 **SEC. 4102. AMOUNTS IN FUNDS.**

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

15 **SEC. 4103. TRANSFERS TO FUNDS.**

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

19 **Subtitle B—Climate Change Credit Corporation**

20 **SEC. 4201. ESTABLISHMENT.**

21 (a) In General.—There is established, as a nonprofit corporation without stock, a
22 corporation to be known as the “Climate Change Credit Corporation”.

23 (b) Treatment.—The Corporation shall not be considered to be an agency or
24 establishment of the Federal Government.

25 **SEC. 4202. APPLICABLE LAWS.**

26 The Corporation shall be subject to this title and, to the extent consistent with this title,
27 the District of Columbia Business Corporation Act (D.C. Code section 29-301 et seq.).

28 **SEC. 4203. BOARD OF DIRECTORS.**

29 (a) In General.—The Corporation shall have a board of directors composed of 5
30 individuals who are citizens of the United States, of whom 1 shall be elected annually by
31 the board to serve as Chairperson.

32 (b) Political Affiliation.—Not more than 3 members of the board serving at any time

1 may be affiliated with the same political party.

2 (c) Appointment and Term.—A member of the board shall be appointed by the
3 President, by and with the advice and consent of the Senate, for a term of 5 years.

4 (d) Quorum.—Three members of the board shall constitute a quorum for a meeting of
5 the board of directors.

6 Subtitle C—Auctions

7 SEC. 4301. EARLY AUCTIONS.

8 (a) Initiation of Auctioning.—Not later than 1 year after the date of enactment of this
9 Act, the Corporation shall begin auctioning the emission allowances allocated to the
10 Corporation under section 3101.

11 (b) Completion of Auctioning.—Not later than December 31, 2011, the Corporation
12 shall complete auctioning of all allowances allocated to the Corporation under section
13 3101.

14 (c) Proceeds From Early Auctioning.—The Corporation shall use to carry out
15 programs established under subtitle D all proceeds of early auctioning conducted by the
16 Corporation under this section.

17 SEC. 4302. ANNUAL AUCTIONS.

18 (a) In General.—Not later than 30 days after the beginning of a calendar year identified
19 in the table contained in section 3201, and annually thereafter through calendar year
20 2050, the Corporation shall auction all of the allowances allocated to the Corporation for
21 that year by the Administrator under section 3201.

22 (b) Proceeds From Annual Auctioning.—

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

27 (2) DEPOSIT OF FUNDS.—For each of calendar years 2012 through 2050, the
28 Corporation shall, subject to subtitle G of this title, deposit into the following Funds
29 established by section 4101 the following percentages of the proceeds from auctions
30 that the Corporation conducts for the calendar year under this section:

31 Energy Assistance Fund	20 percent
32 Climate Change Worker Training Fund	5 percent
33 Adaption Fund	20 percent

34 Subtitle D—Energy Technology Deployment

35 SEC. 4401. IN GENERAL.

36 (a) Allocation.—For each calendar year, the Corporation shall use the amounts

1 described in section 4301(c) and 4302(b) to carry out the programs established under this
2 subtitle, as follows:

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

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

6 (A) Not more than 28 percent shall be used to carry out the advanced coal
7 and sequestration technologies program under section 4403.

8 (B) Not more than 7 percent shall be used to carry out the cellulosic biomass
9 ethanol and municipal solid waste technology deployment programs under
10 section 4404.

11 (3) Not more than 20 percent shall be used to carry out the advanced technology
12 vehicles manufacturing incentive program under section 4405.

13 SEC. 4402. ZERO- OR LOW-CARBON ENERGY 14 TECHNOLOGIES DEPLOYMENT.

15 (a) Definitions.—In this section:

16 (1) ENERGY SAVINGS.—The term “energy savings” means megawatt-hours of
17 electricity or million British thermal units of natural gas saved by a product, in
18 comparison to projected energy consumption under an energy-efficiency standard
19 applicable to the product.

20 (2) HIGH-EFFICIENCY CONSUMER PRODUCT.—The term “high-efficiency consumer
21 product” means a covered product to which an energy conservation standard applies
22 under section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295), if
23 the energy efficiency of the product exceeds the energy efficiency required under the
24 standard.

25 (3) ZERO- OR LOW-CARBON GENERATION.—The term “zero- or low-carbon
26 generation” means generation of electricity by an electric generation unit that—

27 (A) emits no carbon dioxide into the atmosphere, or is fossil-fuel fired and
28 emits into the atmosphere not more than 250 pounds of carbon dioxide per
29 megawatt-hour (after adjustment for any carbon dioxide from the unit that is
30 geologically sequestered); and

31 (B) was placed into commercial service after the date of enactment of this
32 Act.

33 (b) Financial Incentives Program.—During each fiscal year beginning on or after
34 October 1, 2008, the Corporation shall competitively award financial incentives under
35 this subsection in the technology categories of—

36 (1) the production of electricity from new zero- or low-carbon generation; and

37 (2) the manufacture of high-efficiency consumer products.

38 (c) Requirements.—

1 (1) IN GENERAL.—The Corporation shall make awards under this section to
2 producers of new zero- or low-carbon generation and to manufacturers of high-
3 efficiency consumer products—

4 (A) in the case of producers of new zero- or low-carbon generation, based on
5 the bid of each producer in terms of dollars per megawatt-hour of electricity
6 generated; and

7 (B) in the case of manufacturers of high-efficiency consumer products, based
8 on the bid of each manufacturer in terms of dollars per megawatt-hour or
9 million British thermal units saved.

10 (2) ACCEPTANCE OF BIDS.—

11 (A) IN GENERAL.—In making awards under this subsection, the Corporation
12 shall—

13 (i) solicit bids for reverse auction from appropriate producers and
14 manufacturers, as determined by the Corporation; and

15 (ii) award financial incentives to the producers and manufacturers that
16 submit the lowest bids that meet the requirements established by the
17 Corporation.

18 (B) FACTORS FOR CONVERSION.—

19 (i) IN GENERAL.—For the purpose of assessing bids under subparagraph
20 (A), the Corporation shall specify a factor for converting megawatt-hours
21 of electricity and million British thermal units of natural gas to common
22 units.

23 (ii) REQUIREMENT.—The conversion factor shall be based on the
24 relative greenhouse gas emission benefits of electricity and natural gas
25 conservation.

26 (d) Forms of Awards.—

27 (1) ZERO- AND LOW-CARBON GENERATORS.—An award for zero- or low-carbon
28 generation under this subsection shall be in the form of a contract to provide a
29 production payment for each year during the first 10 years of commercial service of
30 the generation unit in an amount equal to the product obtained by multiplying—

31 (A) the amount bid by the producer of the zero- or low-carbon generation;
32 and

33 (B) the megawatt-hours estimated to be generated by the zero- or low-carbon
34 generation unit each year.

35 (2) HIGH-EFFICIENCY CONSUMER PRODUCTS.—An award for a high-efficiency
36 consumer product under this subsection shall be in the form of a lump sum payment
37 in an amount equal to the product obtained by multiplying—

38 (A) the amount bid by the manufacturer of the high-efficiency consumer
39 product; and

40 (B) the energy savings during the projected useful life of the high-efficiency

1 consumer product, not to exceed 10 years, as determined by the Corporation.

2 **SEC. 4403. ADVANCED COAL AND**
3 **SEQUESTRATION TECHNOLOGIES PROGRAM.**

4 (a) Advanced Coal Technologies.—

5 (1) DEFINITION OF ADVANCED COAL GENERATION TECHNOLOGY.—In this
6 subsection, the term “advanced coal generation technology” means advanced a coal-
7 fueled power plant technology that—

8 (A) achieves a minimum efficiency of 30 percent with respect to higher
9 heating value of the feedstock, after all parasitic requirements for carbon
10 dioxide capture and compression to 2,000 pounds per square inch absolute have
11 been subtracted;

12 (B) provides for the capture and geological sequestration of at least 85
13 percent of carbon dioxide produced at the facility, as determined by the
14 Corporation; and

15 (C) has an emission rate of not more than 250 pounds of carbon dioxide per
16 megawatt-hour of net electricity generation, after subtracting the carbon
17 dioxide that is captured and sequestered.

18 (2) DEMONSTRATION PROJECTS.—The Corporation shall use not less than $\frac{1}{4}$ of
19 the amounts made available to carry out this section for each fiscal year to support
20 demonstration projects using advanced coal generation technology, including retrofit
21 technology that could be deployed on existing coal generation facilities.

22 (3) DEPLOYMENT INCENTIVES.—

23 (A) IN GENERAL.—The Corporation shall use not less than $\frac{1}{4}$ of the
24 amounts made available to carry out this subsection for each fiscal year to
25 provide Federal financial incentives to facilitate the deployment of not more
26 than 20 gigawatts of advanced coal generation technologies.

27 (B) ADMINISTRATION.—In providing incentives under this paragraph, the
28 Corporation shall—

29 (i) provide appropriate incentives for regulated investor-owned utilities,
30 municipal utilities, electric cooperatives, and independent power
31 producers, as determined by the Secretary of Energy; and

32 (ii) ensure that a range of the domestic coal types is employed in the
33 facilities that receive incentives under this paragraph.

34 (C) FUNDING REQUIREMENTS.—

35 (i) SEQUESTRATION ACTIVITIES.—The Corporation shall provide
36 incentives only to projects that will capture and sequester at least 85
37 percent of the carbon dioxide produced by the project facilities.

38 (ii) STORAGE AGREEMENT REQUIRED.—The Corporation shall require a
39 binding storage agreement for the carbon dioxide captured in a project

1 under this subsection, in a geological storage project permitted by the
2 Administrator under regulations promulgated pursuant to section
3 1412(b)(16) of the Safe Drinking Water Act (42 U.S.C. 300g-1(b)(16)).

4 (iii) PROJECTS USING CERTAIN COALS.—In providing incentives under
5 this paragraph, the Corporation shall set aside not less than 25 percent of
6 any amounts made available to carry out this subsection for projects using
7 lower-rank coals, such as subbituminous coal and lignite.

8 (4) DISTRIBUTION OF FUNDS.—A project that receives an award under this
9 subsection may elect 1 of the following Federal financial incentives:

10 (A) A loan guarantee.

11 (B) A cost-sharing grant to cover the incremental cost of installing and
12 operating carbon capture and storage equipment (for which utilization costs
13 may be covered for the first 10 years of operation).

14 (C) Production payments of not more than 1.5 cents per kilowatt-hour of
15 electric output during the first 10 years of commercial service of the project.

16 (5) LIMITATION.—A project may not receive an award under this subsection if the
17 project receives an award under section 4402.

18 (b) Sequestration.—

19 (1) IN GENERAL.—The Corporation shall use not less than $\frac{1}{2}$ of the amounts
20 made available to carry out this subsection for each fiscal year for large-scale
21 geological carbon storage demonstration projects that store carbon dioxide captured
22 from facilities for the generation of electricity using coal gasification or other
23 advanced coal combustion processes, including facilities that receive assistance
24 under subsection (a).

25 (2) PROJECT CAPITAL AND OPERATING COSTS.—The Corporation shall provide
26 assistance under this paragraph to reimburse the project owner for a percentage of
27 the incremental project capital and operating costs of the project that are attributable
28 to carbon capture and sequestration, as the Secretary determines to be appropriate.

29 SEC. 4404. FUEL FROM CELLULOSIC BIOMASS.

30 (a) In General.—The Corporation shall provide deployment incentives under this
31 section to encourage a variety of projects to produce transportation fuels from cellulosic
32 biomass, relying on different feedstocks in different regions of the United States.

33 (b) Project Eligibility.—Incentives under this section shall be provided on a
34 competitive basis to projects that produce fuels that—

35 (1) meet United States fuel and emission specifications;

36 (2) help diversify domestic transportation energy supplies; and

37 (3) improve or maintain air, water, soil, and habitat quality, and protect scarce
38 water supplies.

39 (c) Incentives.—Incentives under this section may consist of—

1 (1) loan guarantees for the construction of production facilities and supporting
2 infrastructure; or

3 (2) production payments through a reverse auction in accordance with subsection
4 (d).

5 (d) Reverse Auction.—

6 (1) IN GENERAL.—In providing incentives under this section, the Corporation
7 shall—

8 (A) prescribe rules under which producers of fuel from cellulosic biomass
9 may bid for production payments under subsection (c)(2); and

10 (B) solicit bids from producers of different classes of transportation fuel, as
11 the Corporation determines to be appropriate.

12 (2) REQUIREMENT.—The rules under section 4402 shall require that incentives
13 shall be provided to the producers that submit the lowest bid (in terms of cents per
14 gallon gasoline equivalent) for each class of transportation fuel from which the
15 Corporation solicits a bid.

16 SEC. 4405. ADVANCED TECHNOLOGY VEHICLES 17 MANUFACTURING INCENTIVE PROGRAM.

18 (a) Definitions.—In this section:

19 (1) ADVANCED TECHNOLOGY VEHICLE.—The term “advanced technology vehicle”
20 means a hybrid or advanced diesel light duty motor vehicle that meets—

21 (A) the Tier II Bin 5 emission standard established in rules prescribed by the
22 Administrator under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)), or
23 a lower-numbered Bin emission standard;

24 (B) any new emission standard for fine particulate matter prescribed by the
25 Administrator under that Act; and

26 (C) at least 125 percent of the average base year combined fuel economy,
27 calculated on an energy-equivalent basis, for vehicles of a substantially similar
28 footprint.

29 (2) COMBINED FUEL ECONOMY.—The term “combined fuel economy” means—

30 (A) the combined city-highway miles per gallon values, as reported in
31 accordance with section 32908 of title 49, United States Code; and

32 (B) in the case of an electric drive vehicle with the ability to recharge from
33 an off-board source, the reported mileage, as determined in a manner consistent
34 with the Society of Automotive Engineers recommended practice for that
35 configuration, or a similar practice recommended by the Secretary of Energy,
36 using a petroleum equivalence factor for the off-board electricity (as defined by
37 the Secretary of Energy).

38 (3) ENGINEERING INTEGRATION COSTS.—The term “engineering integration costs”
39 includes the cost of engineering tasks relating to—

1 (A) incorporating qualifying components into the design of advanced
2 technology vehicles; and

3 (B) designing new tooling and equipment for production facilities that
4 produce qualifying components or advanced technology vehicles.

5 (4) QUALIFYING COMPONENT.—The term “qualifying component” means a
6 component that the Secretary of Energy determines to be—

7 (A) specially designed for advanced technology vehicles; and

8 (B) installed for the purpose of meeting the performance requirements of
9 advanced technology vehicles as specified in subparagraphs (A), (B), and (C)
10 of paragraph (1).

11 (b) Manufacturer Facility Conversion Awards.—The Corporation shall provide facility
12 conversion funding awards under this subsection to automobile manufacturers and
13 component suppliers to pay up to 30 percent of the cost of—

14 (1) reequipping or expanding an existing manufacturing facility to produce—

15 (A) qualifying advanced technology vehicles; or

16 (B) qualifying components; and

17 (2) engineering integration of qualifying vehicles and qualifying components.

18 (c) Period of Availability.—An award under subsection (b) shall apply to—

19 (1) facilities and equipment placed in service after the date of enactment of this
20 Act and before January 1, 2016; and

21 (2) engineering integration costs incurred after the date of enactment of this Act.

22 Subtitle E—Energy Consumers

23 SEC. 4501. PROPORTIONS OF FUNDING 24 AVAILABILITY.

25 All funds deposited into the Energy Assistance Fund established by section 4101 shall
26 be made available, without further appropriation or fiscal year limitation, to the following
27 programs in the following proportions:

28 (1) 50 percent of the funds to the low-income home energy assistance program
29 established under the Low Income Home Energy Assistance Act of 1981 (42 U.S.C.
30 8621 et seq.).

31 (2) 25 percent of the funds to the Weatherization Assistance Program for Low-
32 Income Persons established under part A of title IV of the Energy Conservation and
33 Production Act (42 U.S.C. 6861 et seq.).

34 (3) 25 percent of the funds to the rural energy assistance program described in
35 section 4502.

36 SEC. 4502. RURAL ENERGY ASSISTANCE

1 **PROGRAM.**

2 The Secretary of Energy shall carry out a program to use the funds made available
3 under section 4501(3) to provide financial assistance to promote the availability of
4 reasonably-priced electricity in off-grid rural regions in which electricity prices exceed
5 150 percent of the national average, as determined by the Secretary of Energy.

6 **Subtitle F—Climate Change Worker Training Program**

7 **SEC. 4601. FUNDING.**

8 All funds deposited into the Climate Change Worker Training Fund established by
9 section 4101 shall be made available, without further appropriation or fiscal year
10 limitation, to carry out the programs established under this subtitle.

11 **SEC. 4602. PURPOSES.**

12 The purposes of this subtitle are—

- 13 (1) to provide quality job training to any workers displaced by this Act;
- 14 (2) to provide assistance in the form of temporary wages and health care benefits
15 to workers in training;
- 16 (3) to transition workers into jobs created as a result of this Act;
- 17 (4) to provide skilled workers to enterprises developing and marketing advanced
18 technologies and practices that reduce greenhouse gas emissions of the United
19 States; and
- 20 (5) to provide funding for State worker training programs.

21 **SEC. 4603. ESTABLISHMENT.**

22 Not later than 180 days after the date of enactment of this Act, the Secretary of Labor,
23 in consultation with the Administrator and the Secretary of Energy, shall establish a
24 climate change worker training program that achieves the purposes of this subtitle.

25 **SEC. 4604. GRANTS TO STATES.**

26 Not later than 1 year after the date of enactment of this Act, the Secretary of Labor
27 shall establish a program to award grants to States, for use in funding State worker
28 training programs, based on the impact of this Act on the workforce of each State, as
29 determined by the Secretary of Labor.

30 **SEC. 4605. TYPES OF ASSISTANCE.**

31 The types of assistance that workers may receive under the climate change worker
32 training program shall include, as determined by the Secretary of Labor—

- 33 (1) income replacement;
- 34 (2) health care credits;

1 (3) travel costs incidental to participation in a training program under this subtitle;
2 and

3 (4) a portion of the cost of relocating to a new job.

4 Subtitle G—Adaptation Program for Natural Resources in 5 United States and Territories

6 SEC. 4701. DEFINITIONS.

7 In this subtitle:

8 (1) ECOLOGICAL PROCESS.—

9 (A) IN GENERAL.—The term “ecological process” means a biological,
10 chemical, or physical interaction between the biotic and abiotic components of
11 an ecosystem.

12 (B) INCLUSIONS.—The term “ecological process” includes—

13 (i) nutrient cycling;

14 (ii) pollination;

15 (iii) predator-prey relationships;

16 (iv) soil formation;

17 (v) gene flow;

18 (vi) larval dispersal and settlement;

19 (vii) hydrological cycling;

20 (viii) decomposition; and

21 (ix) disturbance regimes, such as fire and flooding.

22 (2) FISH AND WILDLIFE.—The term “fish and wildlife” means—

23 (A) any species of wild fauna, including fish and other aquatic species; and

24 (B) any fauna in a captive breeding program the object of which is to
25 reintroduce individuals of a depleted indigenous species into previously
26 occupied range.

27 (3) HABITAT.—The term “habitat” means the physical, chemical, and biological
28 properties that are used by wildlife (including aquatic and terrestrial plant
29 communities) for growth, reproduction, and survival, food, water, cover, and space,
30 on a tract of land, in a body of water, or in an area or region.

31 (4) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in
32 section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C.
33 450b).

34 (5) PLANT.—The term “plant” means any species of wild flora.

35 (6) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

1 (7) STATE.—The term “State” means—

2 (A) a State;

3 (B) the District of Columbia;

4 (C) the Commonwealth of Puerto Rico; and

5 (D) any other territory or possession of the United States.

6 SEC. 4702. ADAPTATION FUND.

7 (a) In General.—All amounts deposited in the Adaptation Fund established by section
8 4101 shall be made available, without further appropriation or fiscal year limitation, to
9 carry out activities (including research and education activities) that assist fish and
10 wildlife, fish and wildlife habitat, plants, and associated ecological processes in adapting
11 to and surviving the impacts of climate change (referred to in this subtitle as “adaptation
12 activities”) pursuant to this subtitle.

13 (b) Department of the Interior.—Of the amounts made available to carry out this
14 subtitle—

15 (1) 40 percent shall be allocated to the Secretary, and subsequently made
16 available to States through the Wildlife Conservation and Restoration Account
17 established under section 3(a)(2) of the Pittman-Robertson Wildlife Restoration Act
18 (16 U.S.C. 669b(a)(2)), to carry out adaptation activities in accordance with
19 comprehensive wildlife conservation strategies and, where appropriate, other fish
20 and wildlife conservation strategies, including—

21 (A) plans under the National Fish Habitat Initiative of the National Fish and
22 Wildlife Foundation;

23 (B) North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.);

24 (C) the Federal, State, and local partnership known as “Partners in Flight”;

25 (D) coastal zone management plans;

26 (E) regional fishery management plans; and

27 (F) recovery plans for threatened and endangered species under section 6 of
28 the Endangered Species Act of 1973 (16 U.S.C. 1535);

29 (2) 20 percent shall be allocated to the Secretary for use in funding adaptation
30 activities carried out—

31 (A) under endangered species, migratory bird, and other fish and wildlife
32 programs administered by the United States Fish and Wildlife Service;

33 (B) on wildlife refuges and other public land under the jurisdiction of the
34 United States Fish and Wildlife Service, Bureau of Land Management, or
35 National Park Service; or

36 (C) within Federal water managed by the Bureau of Reclamation; and

37 (3) 5 percent shall be allocated to the Secretary for adaptation activities carried
38 out under cooperative grant programs, including—

1 (A) the Tribal Wildlife Grants program of the United States Fish and
2 Wildlife Service;

3 (B) the cooperative endangered species conservation fund authorized under
4 section 6(i) of the Endangered Species Act of 1973 (16 U.S.C. 1535(i));

5 (C) programs under the North American Wetlands Conservation Act (16
6 U.S.C. 4401 et seq.);

7 (D) the Land and Water Conservation Fund established under section 2 of
8 the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-5);

9 (E) the multinational species conservation fund established under the
10 heading "MULTINATIONAL SPECIES CONSERVATION FUND" of title I of the
11 Department of the Interior and Related Agencies Appropriations Act, 1999 (16
12 U.S.C. 4246);

13 (F) the Neotropical Migratory Bird Conservation Fund established by section
14 9(a) of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6108(a));

15 (G) the Coastal Program of the United States Fish and Wildlife Service; and

16 (H) the National Fish Habitat Action Plan.

17 (c) Forest Service.—Of the amounts made available each fiscal year to carry out this
18 subtitle, 5 percent shall be allocated to the Secretary of Agriculture for use in funding
19 adaptation activities carried out on National Forests and National Grasslands under the
20 jurisdiction of the Forest Service.

21 (d) Environmental Protection Agency.—Of the amounts made available to carry out
22 this subtitle, 12.5 percent shall be allocated to the Administrator for use in restoring and
23 protecting—

24 (1) large-scale freshwater aquatic ecosystems, such as the Everglades, the Great
25 Lakes, Flathead Lake, the Missouri River, and the Yellowstone River; and

26 (2) large-scale estuarine ecosystems, such as Chesapeake Bay and Long Island
27 Sound.

28 (e) Corps of Engineers.—Of the amounts made available to carry out this subtitle, 12.5
29 percent shall be allocated to the Corps of Engineers for use in restoring—

30 (1) large-scale freshwater aquatic ecosystems, such as the ecosystems described in
31 subsection (d)(1); and

32 (2) large-scale estuarine ecosystems, such as Chesapeake Bay, California Bay
33 Delta, Coastal Louisiana, Long Island Sound, and Puget Sound.

34 (f) Department of Commerce.—Of the amounts made available to carry out this
35 subtitle, 5 percent shall be allocated to the Secretary of Commerce for use in funding
36 adaptation activities carried out in protecting and restoring coastal, estuarine, coral, and
37 marine species and habitats, including adaptation activities in cooperative grant programs
38 such as—

39 (1) the Coastal and Estuarine Land Conservation Program and the Community-
40 Based Restoration Program of the National Oceanic and Atmospheric

1 Administration; and

2 (2) programs under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et
3 seq.).

4 (g) Cost Sharing.—Notwithstanding any other provision of law, a State or Indian tribe
5 that receives a grant under this section shall be required to provide 10 percent of the costs
6 of each activity carried out using funds from the grant.

7 (h) Comprehensive Adaptation Strategy.—

8 (1) IN GENERAL.—Effective beginning on the date that is 18 months after the date
9 of enactment of this Act, funds made available to the Federal agencies under this
10 subtitle shall be used only for activities that are consistent with a comprehensive
11 adaptation strategy that—

12 (A) is jointly approved by the head of each of the Federal agencies, after—

13 (i) consultation with States and Indian tribes; and

14 (ii) solicitation of public and independent scientific input; and

15 (B) describes the manner in which the Federal Government will assist fish
16 and wildlife, fish and wildlife habitat, plants, and associated ecological
17 processes in adapting to and surviving the impacts of climate change.

18 (2) UPDATING.—Each adaptation strategy described in paragraph (1) shall be
19 updated at least every 5 years.

20 **Subtitle H— Climate Change and National Security**
21 **Program**

22 **SEC. 4801. INTERAGENCY CLIMATE CHANGE AND**
23 **NATIONAL SECURITY COUNCIL**

24 (a) Establishment.—There is established a Climate Change and National Security
25 Council.

26 (b) Chairperson.—The Secretary of State shall chair the Council.

27 (c) Membership.—The Council shall include the Secretary of State, the Administrator,
28 the Secretary of Defense, and the Director of National Intelligence.

29 (d) Reports.—The Council shall report annually to the President and the Congress on the
30 extent to which global climate change, through its potential negative impacts on sensitive
31 populations and natural resources in different regions of the world, may threaten, cause,
32 or exacerbate political instability or international conflict in those regions.

33 (e) Recommendations.—Each report shall recommend uses for the United States to make
34 of funds made available under section 4801 to mitigate or forestall political instability
35 and international conflict in the regions in question through actions designed to enable
36 the sensitive populations and natural resources in question to adapt to, endure, or avoid
37 negative global climate change impacts.

1 **SEC. 4802. FUNDING**

2 Upon a determination in any calendar year by the President, based on any report and
3 recommendations issued under section 4801, that funds are warranted to carry out the
4 recommendations—

5 (a) the Corporation shall, notwithstanding paragraph (2) of subsection 4302(b), deposit 5
6 percent of the proceeds from auctioning that the Corporation conducts in that year under
7 subsection 4302(a) into The Climate Change and National Security Fund established
8 under section 4101; and

9 (b) the President shall use the funds to implement the recommendations.

10 **Subtitle I—Audits**

11 The Comptroller General of the United States shall review and audit the expenditures
12 under this title no later than January 1, 2014, and every third year thereafter, in order to
13 determine the efficacy of the programs, expenditures, and projects funded under this title.

14 **TITLE V—ENERGY EFFICIENCY**

15 **Subtitle A—Appliance Efficiency**

16 **SEC. 5101. RESIDENTIAL BOILERS.**

17 Section 325(f) of the Energy Policy and Conservation Act (42 U.S.C. 6925(f)) is
18 amended—

19 (1) in the subsection heading, by inserting “and Boilers” after “Furnaces”;

20 (2) in paragraph (1), by striking “except that” and all that follows through
21 subparagraph (A) and inserting “except that”;

22 (3) in subparagraph (B)—

23 (A) by striking “(B) the Secretary” and inserting “the Secretary”; and

24 (B) by redesignating clauses (i) through (iii) as subparagraphs (A) through
25 (C), respectively, and indenting appropriately;

26 (4) by redesignating paragraph (3) as paragraph (4); and

27 (5) by inserting after paragraph (2) the following:

28 “(3) BOILERS.—

29 “(A) IN GENERAL.—Subject to subparagraphs (B) and (C), boilers
30 manufactured on or after September 1, 2012, shall meet the following
31 requirements:

32 -----
33 Boiler Type Minimum Annual Fuel Utilization Efficiency Design Requirements

34 -----
35 Gas Hot Water 82%, No Constant Burning Pilot, Automatic Means for Adjusting
36 Water Temperature

1	Gas Steam	80%, No Constant Burning Pilot
2	Oil Hot Water	84%, Automatic Means for Adjusting Temperature
3	Oil Steam	82%, None
4	Electric Hot Water	None, Automatic Means for Adjusting Temperature
5	Electric Steam	None, None

6 -----

7 “(B) AUTOMATIC MEANS FOR ADJUSTING WATER TEMPERATURE.—

8 “(i) IN GENERAL.—The manufacturer shall equip each gas, oil, and
9 electric hot water boiler (other than a boiler equipped with tankless
10 domestic water heating coils) with an automatic means for adjusting the
11 temperature of the water supplied by the boiler to ensure that an
12 incremental change in inferred heat load produces a corresponding
13 incremental change in the temperature of water supplied.

14 “(ii) CERTAIN BOILERS.—For a boiler that fires at 1 input rate, the
15 requirements of this subparagraph may be satisfied by providing an
16 automatic means that allows the burner or heating element to fire only
17 when the means has determined that the inferred heat load cannot be met
18 by the residual heat of the water in the system.

19 “(iii) NO INFERRED HEAT LOAD.—When there is no inferred heat load
20 with respect to a hot water boiler, the automatic means described in
21 clauses (i) and (ii) shall limit the temperature of the water in the boiler to
22 not more than 140 degrees Fahrenheit.

23 “(iv) OPERATION.—A boiler described in clause (i) or (ii) shall be
24 operable only when the automatic means described in clauses (i), (ii), and
25 (iii) is installed.

26 “(C) EXCEPTION.—A boiler that is manufactured to operate without any need
27 for electricity, any electric connection, any electric gauges, electric pumps,
28 electric wires, or electric devices of any sort, shall not be required to meet the
29 requirements of this subsection.”.

30 **SEC. 5102. REGIONAL VARIATIONS IN HEATING OR**
31 **COOLING STANDARDS.**

32 (a) In General.—Section 327 of the Energy Policy and Conservation Act (42 U.S.C.
33 6297) is amended—

34 (1) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h),
35 respectively; and

36 (2) by inserting after subsection (d) the following:

37 “(e) Regional Standards for Space Heating and Air Conditioning Products.—

38 “(1) STANDARDS.—

39 “(A) IN GENERAL.—The Secretary may establish regional standards for space
40 heating and air conditioning products, other than window-unit air-conditioners

1 and portable space heaters.

2 “(B) NATIONAL MINIMUM AND REGIONAL STANDARDS.—For each space
3 heating and air conditioning product, the Secretary may establish—

4 “(i) a national minimum standard; and

5 “(ii) 2 more stringent regional standards for regions determined to have
6 significantly differing climatic conditions.

7 “(C) MAXIMUM SAVINGS.—Any standards established for a region under
8 subparagraph (B)(ii) shall achieve the maximum level of energy savings that
9 are technically feasible and economically justified within that region.

10 “(D) ECONOMIC JUSTIFIABILITY STUDY.—

11 “(i) IN GENERAL.—As a preliminary step in determining the economic
12 justifiability of establishing a regional standard under subparagraph
13 (B)(ii), the Secretary shall conduct a study involving stakeholders,
14 including—

15 “(I) a representative from the National Institute of Standards and
16 Technology;

17 “(II) representatives of nongovernmental advocacy organizations;

18 “(III) representatives of product manufacturers, distributors, and
19 installers;

20 “(IV) representatives of the gas and electric utility industries; and

21 “(V) such other individuals as the Secretary may designate.

22 “(ii) REQUIREMENTS.—The study under this subparagraph—

23 “(I) shall determine the potential benefits and consequences of
24 prescribing regional standards for heating and cooling products; and

25 “(II) may, if favorable to the standards, constitute the evidence of
26 economic justifiability required under this Act.

27 “(E) REGIONAL BOUNDARIES.—Regional boundaries used in establishing
28 regional standards under subparagraph (B)(ii) shall—

29 “(i) conform to State borders; and

30 “(ii) include only contiguous States (other than Alaska and Hawaii),
31 except that on the request of a State, the Secretary may divide the State to
32 include a part of the State in each of 2 regions.

33 “(2) NONCOMPLYING PRODUCTS.—If the Secretary establishes standards for a
34 region, it shall be unlawful under section 332 to offer for sale at retail, sell at retail,
35 or install within the region products that do not comply with the applicable
36 standards.

37 “(3) DISTRIBUTION IN COMMERCE.—

38 “(A) IN GENERAL.—Except as provided in subparagraph (B), no product

1 manufactured in a manner that complies with a regional standard established
2 under paragraph (1) shall be distributed in commerce without a prominent label
3 affixed to the product that includes—

4 “(i) at the top of the label, in print of not less than 14-point type, the
5 following statement: ‘It is a violation of Federal law for this product to be
6 installed in any State outside the region shaded on the map printed on this
7 label.’;

8 “(ii) below the notice described in clause (i), an image of a map of the
9 United States with clearly defined State boundaries and names, and with
10 all States in which the product meets or exceeds the standard established
11 pursuant to paragraph (1) shaded in a color or a manner as to be easily
12 visible without obscuring the State boundaries and names; and

13 “(iii) below the image of the map required under clause (ii), the
14 following statement: ‘It is a violation of Federal law for this label to be
15 removed, except by the owner and legal resident of any single-family
16 home in which this product is installed.’.

17 “(B) ENERGY-EFFICIENCY RATING.—A product manufactured that meets or
18 exceeds all regional standards established under this paragraph shall bear a
19 prominent label affixed to the product that includes at the top of the label, in
20 print of not less than 14-point type, the following statement: ‘This product has
21 achieved an energy-efficiency rating under Federal law allowing its installation
22 in any State.’.

23 “(4) RECORDKEEPING.—A manufacturer of space heating or air conditioning
24 equipment subject to regional standards established under this subsection shall—

25 “(A) obtain and retain records on the intended installation locations of the
26 equipment sold; and

27 “(B) make such records available to the Secretary on request.”.

28 (b) Conforming Amendments.—Section 327 of the Energy Policy and Conservation
29 Act (42 U.S.C. 6297) is amended—

30 (1) in subsection (b)—

31 (A) in paragraph (2), by striking “subsection (e)” and inserting “subsection
32 (f)”; and

33 (B) in paragraph (3)—

34 (i) by striking “subsection (f)(1)” and inserting “subsection (g)(1)”; and

35 (ii) by striking “subsection (f)(2)” and inserting “subsection (g)(2)”; and

36 (2) in subsection (c)(3), by striking “subsection (f)(3)” and inserting “subsection
37 (g)(3)”.

38 Subtitle B—Building Efficiency

39 SEC. 5201. UPDATING STATE BUILDING ENERGY

1 EFFICIENCY CODES.

2 Section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) is
3 amended to read as follows:

4 “SEC. 304. UPDATING STATE BUILDING ENERGY
5 EFFICIENCY CODES.

6 “(a) Updates.—

7 “(1) IN GENERAL.—The Secretary shall support updating the national model
8 building energy codes and standards not later than 3 years after the date of
9 enactment of the America’s Climate Security Act of 2007, and not less frequently
10 every 3 years thereafter, to achieve overall energy savings, as compared to the IECC
11 (2006) for residential buildings and ASHRAE Standard 90.1 (2004) for commercial
12 buildings, of at least—

13 “(A) 30 percent by 2010;

14 “(B) 50 percent by 2020; and

15 “(C) goals to be established by the Secretary in intermediate and subsequent
16 years, at the maximum level of energy efficiency that is technologically
17 feasible and lifecycle cost effective.

18 “(2) REVISIONS TO IECC AND ASHRAE.—

19 “(A) IN GENERAL.—If the IECC or ASHRAE Standard 90.1 regarding
20 building energy use is revised, not later than 180 days after the date of the
21 revision, the Secretary shall determine whether the revision will—

22 “(i) improve energy efficiency in buildings; and

23 “(ii) meet the energy savings goals described in paragraph (1).

24 “(B) MODIFICATIONS.—

25 “(i) IN GENERAL.—If the Secretary makes a determination under
26 subparagraph (A)(ii) that a code or standard does not meet the energy
27 savings goals established under paragraph (1) or if a national model code
28 or standard is not updated for more than 3 years, not later than 1 year after
29 the determination or the expiration of the 3-year period, the Secretary shall
30 propose a modified code or standard that meets the energy savings goals.

31 “(ii) REQUIREMENTS.—

32 “(I) ENERGY SAVINGS.—A modification to a code or standard
33 under clause (i) shall—

34 “(aa) achieve the maximum level of energy savings that is
35 technically feasible and economically justified; and

36 “(bb) incorporate available appliances, technologies, and
37 construction practices.

1 “(II) TREATMENT AS BASELINE.—A modification to a code or
2 standard under clause (i) shall serve as the baseline for the next
3 applicable determination of the Secretary under subparagraph (A)(i).

4 “(C) PUBLIC PARTICIPATION.—The Secretary shall—

5 “(i) publish in the Federal Register a notice relating to each goal,
6 determination, and modification under this paragraph; and

7 “(ii) provide an opportunity for public comment regarding the goals,
8 determinations, and modifications.

9 “(b) State Certification of Building Energy Code Updates.—

10 “(1) GENERAL CERTIFICATION.—

11 “(A) IN GENERAL.—Not later than 2 years after the date of enactment of the
12 America’s Climate Security Act of 2007, each State shall certify to the
13 Secretary that the State has reviewed and updated the provisions of the
14 residential and commercial building codes of the State regarding energy
15 efficiency.

16 “(B) ENERGY SAVINGS.—A certification under subparagraph (A) shall
17 include a demonstration that the applicable provisions of the State code meet or
18 exceed, as applicable—

19 “(i)(I) the IECC (2006) for residential buildings; or

20 “(II) the ASHRAE Standard 90.1 (2004) for commercial buildings; or

21 “(ii) the quantity of energy savings represented by the provisions
22 referred to in clause (i).

23 “(2) REVISION OF CODES AND STANDARDS.—

24 “(A) IN GENERAL.—If the Secretary makes an affirmative determination
25 under subsection (a)(2)(A)(i) or proposes a modified code or standard under
26 subsection (a)(2)(B), not later than 2 years after the determination or proposal,
27 each State shall certify that the State has reviewed and updated the provisions
28 of the residential and commercial building codes of the State regarding energy
29 efficiency.

30 “(B) ENERGY SAVINGS.—A certification under subparagraph (A) shall
31 include a demonstration that the applicable provisions of the State code meet or
32 exceed—

33 “(i) the modified code or standard; or

34 “(ii) the quantity of energy savings represented by the modified code or
35 standard.

36 “(C) FAILURE TO DETERMINE.—If the Secretary fails to make a determination
37 under subsection (a)(2)(A)(i) by the date specified in subsection (a)(2), or if the
38 Secretary makes a negative determination, not later than 2 years after the
39 specified date or the date of the determination, each State shall certify that the
40 State has—

- 1 “(i) reviewed the revised code or standard; and
2 “(ii) updated the provisions of the residential and commercial building
3 codes of the State as necessary to meet or exceed, as applicable—
4 “(I) any provisions of a national code or standard determined to
5 improve energy efficiency in buildings; or
6 “(II) energy savings achieved by those provisions through other
7 means.

8 “(c) Achievement of Compliance by States.—

9 “(1) IN GENERAL.—Not later than 3 years after the date on which a State makes a
10 certification under subsection (b), the State shall certify to the Secretary that the
11 State has achieved compliance with the national building energy code that is the
12 subject of the certification.

13 “(2) RATE OF COMPLIANCE.—The certification shall include documentation of the
14 rate of compliance based on independent inspections of a random sample of the new
15 and renovated buildings covered by the State code during the preceding calendar
16 year.

17 “(3) COMPLIANCE.—A State shall be considered to achieve compliance for
18 purposes of paragraph (1) if—

19 “(A) at least 90 percent of new and renovated buildings covered by the State
20 code during the preceding calendar year substantially meet all the requirements
21 of the code; or

22 “(B) the estimated excess energy use of new and renovated buildings that did
23 not meet the requirements of the State code during the preceding calendar year,
24 as compared to a baseline of comparable buildings that meet the requirements
25 of the code, is not more than 10 percent of the estimated energy use of all new
26 and renovated buildings covered by the State code during the preceding
27 calendar year.

28 “(d) Failure to Certify.—

29 “(1) EXTENSION OF DEADLINES.—The Secretary shall extend a deadline for
30 certification by a State under subsection (b) or (c) for not more than 1 additional
31 year, if the State demonstrates to the satisfaction of the Secretary that the State has
32 made—

33 “(A) a good faith effort to comply with the certification requirement; and

34 “(B) significant progress with respect to the compliance.

35 “(2) NONCOMPLIANCE BY STATE.—

36 “(A) IN GENERAL.—A State that fails to submit a certification required under
37 subsection (b) or (c), and to which an extension is not provided under
38 paragraph (1), shall be considered to be out of compliance with this section.

39 “(B) EFFECT ON LOCAL GOVERNMENTS.—A local government of a State that
40 is out of compliance with this section may be considered to be in compliance

1 with this section if the local government meets each applicable certification
2 requirement of this section.

3 “(e) Technical Assistance.—

4 “(1) IN GENERAL.—The Secretary shall provide technical assistance (including
5 building energy analysis and design tools, building demonstrations, and design
6 assistance and training) to ensure that national model building energy codes and
7 standards meet the goals described in subsection (a)(1).

8 “(2) ASSISTANCE TO STATES.—The Secretary shall provide technical assistance to
9 States—

10 “(A) to implement this section, including procedures for States to
11 demonstrate that the codes of the States achieve equivalent or greater energy
12 savings than the national model codes and standards;

13 “(B) to improve and implement State residential and commercial building
14 energy efficiency codes; and

15 “(C) to otherwise promote the design and construction of energy-efficient
16 buildings.

17 “(f) Incentive Funding.—

18 “(1) IN GENERAL.—The Secretary shall provide incentive funding to States—

19 “(A) to implement this section; and

20 “(B) to improve and implement State residential and commercial building
21 energy efficiency codes, including increasing and verifying compliance with
22 the codes.

23 “(2) AMOUNT.—In determining whether, and in what amount, to provide
24 incentive funding under this subsection, the Secretary shall take into consideration
25 actions proposed by the State—

26 “(A) to implement this section;

27 “(B) to implement and improve residential and commercial building energy
28 efficiency codes; and

29 “(C) to promote building energy efficiency through use of the codes.

30 “(3) ADDITIONAL FUNDING.—The Secretary shall provide additional funding
31 under this subsection for implementation of a plan to demonstrate a rate of
32 compliance with applicable residential and commercial building energy efficiency
33 codes at a rate of not less than 90 percent, based on energy performance—

34 “(A) to a State that has adopted and is implementing, on a statewide basis—

35 “(i) a residential building energy efficiency code that meets or exceeds
36 the requirements of the IECC (2006) (or a successor code that is the
37 subject of an affirmative determination by the Secretary under subsection
38 (a)(2)(A)(i)); and

39 “(ii) a commercial building energy efficiency code that meets or

1 exceeds the requirements of the ASHRAE Standard 90.1 (2004) (or a
2 successor standard that is the subject of an affirmative determination by
3 the Secretary under subsection (a)(2)(A)(i)); or

4 “(B) in the case of a State in which no statewide energy code exists for
5 residential buildings or commercial buildings, or in which the State code fails
6 to comply with subparagraph (A), to a local government that has adopted and is
7 implementing residential and commercial building energy efficiency codes, as
8 described in subparagraph (A).

9 “(4) TRAINING.—Of the amounts made available to carry out this subsection, the
10 Secretary may use not more than \$500,000 for each State to train State and local
11 officials to implement State or local energy codes in accordance with a plan
12 described in paragraph (3).”.

13 SEC. 5202. CONFORMING AMENDMENT.

14 Section 303 of the Energy Conservation and Production Act (42 U.S.C. 6832) is
15 amended by adding at the end the following new paragraph:

16 “(17) IECC.—The term ‘IECC’ means the International Energy Conservation
17 Code.”.

18 TITLE VI—GLOBAL EFFORT TO REDUCE 19 GREENHOUSE GAS EMISSIONS

20 SEC. 6001. DEFINITIONS.

21 In this title:

22 (1) BASELINE EMISSION LEVEL.—The term “baseline emission level” means, as
23 determined by the Administrator, the total average annual greenhouse gas emissions
24 attributed to a category of covered goods of a foreign country during the period
25 beginning on January 1, 2012, and ending on December 31, 2014, based on—

26 (A) relevant data available for that period; and

27 (B) to the extent necessary with respect to a specific category of covered
28 goods, economic and engineering models and best available information on
29 technology performance levels for the manufacture of that category of covered
30 goods.

31 (2) COMPARABLE ACTION.—The term “comparable action” means any greenhouse
32 gas regulatory programs, requirements, and other measures adopted by a foreign
33 country that, in combination, are comparable in effect to actions carried out by the
34 United States to limit greenhouse gas emissions pursuant to this Act, as determined
35 by the President, taking into consideration the level of economic development of the
36 foreign country.

37 (3) COMPLIANCE YEAR.—The term “compliance year” means each calendar year
38 for which the requirements of this title apply to a category of covered goods of a
39 covered foreign country that is imported into the United States.

1 (4) COVERED FOREIGN COUNTRY.—The term “covered foreign country” means a
2 foreign country that is included on the covered list prepared under section
3 6006(b)(3).

4 (5) COVERED GOOD.—The term “covered good” means a good that (as identified
5 by the Administrator by rule)—

6 (A) is a primary product;

7 (B) generates, in the course of the manufacture of the good, a substantial
8 quantity of direct greenhouse gas emissions and indirect greenhouse gas
9 emissions; and

10 (C) is closely related to a good the cost of production of which in the United
11 States is affected by a requirement of this Act.

12 (6) FOREIGN COUNTRY.—The term “foreign country” means a member of, or
13 observer government to, the World Trade Organization (WTO), other than the
14 United States.

15 (7) INDIRECT GREENHOUSE GAS EMISSIONS.—The term “indirect greenhouse gas
16 emissions” means any emissions of a greenhouse gas resulting from the generation
17 of electricity that is consumed during the manufacture of a good.

18 (8) INTERNATIONAL AGREEMENT.—The term “international agreement” means any
19 international agreement to which the United States is a party, including the
20 Marrakesh agreement establishing the World Trade Organization, done at Marrakesh
21 on April 15, 1994.

22 (9) INTERNATIONAL RESERVE ALLOWANCE.—The term “international reserve
23 allowance” means an allowance (denominated in units of metric tons of carbon
24 dioxide equivalent) that is—

25 (A) purchased from a special reserve of allowances pursuant to section
26 6006(a)(2); and

27 (B) used for purposes of meeting the requirements of section 6006.

28 (10) PRIMARY PRODUCT.—The term “primary product” means—

29 (A) iron, steel, aluminum, cement, bulk glass, or paper; or

30 (B) any other manufactured product that—

31 (i) is sold in bulk for purposes of further manufacture; and

32 (ii) generates, in the course of the manufacture of the product, direct
33 greenhouse gas emissions and indirect greenhouse gas emissions that are
34 comparable (on an emissions-per-dollar basis) to emissions generated in
35 the manufacture of products by covered facilities in the industrial sector.

36 SEC. 6002. PURPOSES.

37 The purposes of this title are—

38 (1) to promote a strong global effort to significantly reduce greenhouse gas

1 emissions;

2 (2) to ensure, to the maximum extent practicable, that greenhouse gas emissions
3 occurring outside the United States do not undermine the objectives of the United
4 States in addressing global climate change; and

5 (3) to encourage effective international action to achieve those objectives
6 through—

7 (A) agreements negotiated between the United States and foreign countries;
8 and

9 (B) measures carried out by the United States that comply with applicable
10 international agreements.

11 SEC. 6003. INTERNATIONAL NEGOTIATIONS.

12 (a) Finding.—Congress finds that the purposes described in section 6002 can be most
13 effectively addressed and achieved through agreements negotiated between the United
14 States and foreign countries.

15 (b) Negotiating Objective.—

16 (1) STATEMENT OF POLICY.—It is the policy of the United States to work
17 proactively under the United Nations Framework Convention on Climate Change
18 and, in other appropriate forums, to establish binding agreements committing all
19 major greenhouse gas-emitting nations to contribute equitably to the reduction of
20 global greenhouse gas emissions.

21 (2) INTENT OF CONGRESS REGARDING OBJECTIVE.—To the extent that the
22 agreements described in subsection (a) involve measures that will affect
23 international trade in any good or service, it is the intent of Congress that the
24 negotiating objective of the United States shall be to focus multilateral and bilateral
25 international agreements on the reduction of greenhouse gas emissions to advance
26 achievement of the purposes described in section 6002.

27 SEC. 6004. INTERAGENCY REVIEW.

28 (a) Interagency Group.—

29 (1) ESTABLISHMENT.—The President shall establish an interagency group to carry
30 out this section.

31 (2) CHAIRPERSON.—The chairperson of the interagency group established under
32 paragraph (1) shall be the Secretary of State.

33 (3) REQUIREMENT.—The Administrator shall be a member of the interagency
34 group.

35 (b) Determinations.—

36 (1) IN GENERAL.—Subject to paragraph (2), the interagency group established
37 under subsection (a)(1) shall determine whether, and the extent to which, each
38 foreign country has taken comparable action to limit the greenhouse gas emissions
39 of the foreign country.

1 (2) EXEMPTION.—The interagency group may exempt from a determination under
2 paragraph (1) any foreign country on the excluded list under section 6006(b)(2).

3 (c) Report to President.—Not later than January 1, 2018, and annually thereafter, the
4 interagency group shall submit to the President a report describing the determinations of
5 the interagency group under subsection (b).

6 SEC. 6005. PRESIDENTIAL DETERMINATIONS.

7 (a) In General.—Not later than January 1, 2019, and annually thereafter, the President
8 shall determine whether each foreign country that is subject to interagency review under
9 section 6004(b) has taken comparable action to limit the greenhouse gas emissions of the
10 foreign country, taking into consideration—

11 (1) the baseline emission levels of the foreign country; and

12 (2) applicable reports submitted under section 6004(c).

13 (b) Reports.—The President shall—

14 (1) submit to Congress an annual report describing the determinations of the
15 President under subsection (a) for the most recent calendar year; and

16 (2) publish the determinations in the Federal Register.

17 SEC. 6006. INTERNATIONAL RESERVE 18 ALLOWANCE PROGRAM.

19 (a) Establishment.—

20 (1) IN GENERAL.—The Administrator shall establish a program under which the
21 Administrator, during the 1-year period beginning on January 1, 2019, and annually
22 thereafter, shall offer for sale to United States importers international reserve
23 allowances in accordance with this subsection.

24 (2) SOURCE.—International reserve allowances under paragraph (1) shall be
25 issued from a special reserve of allowances that is separate from, and established in
26 addition to, the quantity of allowances established under section 1201.

27 (3) PRICE.—

28 (A) IN GENERAL.—Subject to subparagraph (B), the Administrator shall
29 establish, by rule, a methodology for determining the price of international
30 reserve allowances for each compliance year at a level that does not exceed the
31 market price of allowances established under section 1201 for the compliance
32 year.

33 (B) MAXIMUM PRICE.—The price for an international reserve allowance
34 under subparagraph (A) shall not exceed the clearing price for current
35 compliance year allowances established at the most recent auction of
36 allowances by the Corporation.

37 (4) SERIAL NUMBER.—The Administrator shall assign a unique serial number to
38 each international reserve allowance issued under this subsection.

1 (5) TRADING SYSTEM.—The Administrator may establish, by rule, a system for the
2 sale, exchange, purchase, transfer, and banking of international reserve allowances.

3 (6) REGULATED ENTITIES.—International reserve allowances may not be
4 submitted by regulated entities to comply with the allowance submission
5 requirements of section 1202.

6 (7) PROCEEDS.—All proceeds from the sale of international reserve allowances
7 under this subsection shall be allocated to a program that the Administrator, in
8 coordination with the Secretary of State, shall establish to mitigate the negative
9 impacts of global climate change on disadvantaged communities in other countries.

10 (b) Foreign Country Lists.—

11 (1) IN GENERAL.—Not later than January 1, 2020, and annually thereafter, the
12 President shall develop and publish in the Federal Register 2 lists of foreign
13 countries, in accordance with this subsection.

14 (2) EXCLUDED LIST.—

15 (A) IN GENERAL.—The President shall identify and publish in a list, to be
16 known as the “excluded list”, each foreign country the share of total global
17 greenhouse gas emissions of which is below the de minimis percentage
18 described in subparagraph (B).

19 (B) DE MINIMIS PERCENTAGE.—The de minimis percentage referred to in
20 subparagraph (A) is a percentage of total global greenhouse gas emissions of
21 not more than 0.5, as determined by the President, for the most recent calendar
22 year for which emissions and other relevant data is available, taking into
23 consideration, as necessary, the annual average deforestation rate during a
24 representative period for a foreign country that is a developing country.

25 (3) COVERED LIST.—

26 (A) IN GENERAL.—The President shall identify and publish in a list, to be
27 known as the “covered list”, each foreign country the covered goods of which
28 are subject to the requirements of this section.

29 (B) REQUIREMENT.—The covered list shall include each foreign country that
30 is not included on the excluded list under paragraph (2).

31 (c) Written Declarations.—

32 (1) IN GENERAL.—Effective beginning January 1, 2020, a United States importer
33 of any covered good shall, as a condition of importation or withdrawal for
34 consumption from a warehouse of the covered good, submit to the Administrator
35 and the appropriate office of the U.S. Customs and Border Protection a written
36 declaration with respect to each such importation or withdrawal.

37 (2) CONTENTS.—A written declaration under paragraph (1) shall contain a
38 statement that—

39 (A) the applicable covered good is accompanied by a sufficient number of
40 international reserve allowances, as determined under subsection (d); or

1 (B) the covered good is from a foreign country on the excluded list under
2 subsection (b)(2).

3 (3) INCLUSION.—A written declaration described in paragraph (2)(A) shall include
4 the unique serial number of each emission allowance associated with the importation
5 of the applicable covered good.

6 (4) FAILURE TO DECLARE.—

7 (A) IN GENERAL.—Except as provided in subparagraph (B), an imported
8 covered good that is not accompanied by a written declaration under this
9 subsection shall not be permitted to enter the customs territory of the United
10 States.

11 (B) EXCEPTION FOR CERTAIN IMPORTS.—Subparagraph (A) shall not apply to
12 a covered good of a foreign country if the President determines that—

13 (i) the foreign country has taken comparable action to limit the
14 greenhouse gas emissions of the foreign country, in accordance with
15 section 6005;

16 (ii) the United Nations has identified the foreign country as among the
17 least-developed of developing countries; or

18 (iii) the foreign country is on the excluded list under subsection (b)(2).

19 (5) CORRECTED DECLARATION.—

20 (A) IN GENERAL.—If, after making a declaration required under this
21 subsection, an importer has reason to believe that the declaration contains
22 information that is not correct, the importer shall provide a corrected
23 declaration by not later than 30 days after the date of discovery of the error, in
24 accordance with subparagraph (B).

25 (B) METHOD.—A corrected declaration under subparagraph (A) shall be in
26 the form of a letter or other written statement to the Administrator and the
27 office of the U.S. Customs and Border Protection to which the original
28 declaration was submitted.

29 (d) Quantity of Allowances Required.—

30 (1) METHODOLOGY.—

31 (A) IN GENERAL.—The Administrator shall establish, by rule, a method for
32 calculating the required number of international reserve allowances that a
33 United States importer must submit, together with a written declaration under
34 subsection (c), for each category of covered goods of each covered foreign
35 country.

36 (B) FORMULA.—The Administrator shall develop a general formula for
37 calculating the international reserve allowance requirement that applies, on a
38 per unit basis, to each covered good of a covered foreign country that is
39 imported during each compliance year.

40 (2) INITIAL COMPLIANCE YEAR.—

1 (A) IN GENERAL.—Subject to subparagraph (B), the methodology under
2 paragraph (1) shall establish an international reserve allowance requirement
3 (per unit imported into the United States) for the initial compliance year for
4 each category of covered goods of each covered foreign country that is equal to
5 the quotient obtained by dividing—

6 (i) the excess, if any, of the total emissions from the covered foreign
7 country that are attributable to the category of covered goods produced
8 during the most recent year for which data are available, over the baseline
9 emission level of the covered foreign country for that category; and

10 (ii) the total quantity of the covered good produced in the covered
11 foreign country during the most recent calendar year.

12 (B) ADJUSTMENTS.—The Administrator shall adjust the requirement under
13 subparagraph (A)—

14 (i) in accordance with the ratio that—

15 (I) the quantity of allowances that were allocated at no cost to
16 entities within the industry sector manufacturing the covered goods
17 for the compliance year during which the covered goods were
18 imported into the United States; bears to

19 (II) the greenhouse gas emissions of that industry sector; and

20 (ii) to take into account the level of economic development of the
21 covered foreign country in which the covered goods were produced.

22 (3) SUBSEQUENT COMPLIANCE YEARS.—For each subsequent compliance year, the
23 Administrator shall revise, as appropriate, the international reserve allowance
24 requirement applicable to each category of imported covered goods of each covered
25 foreign country to reflect changes in the factors described in paragraph (2)(B).

26 (4) PUBLICATION.—Not later than 90 days before the beginning of each
27 compliance year, the Administrator shall publish in the Federal Register a schedule
28 describing the required number of international reserve allowances for each category
29 of imported covered goods of each covered foreign country, as calculated under this
30 subsection.

31 (e) Foreign Allowances and Credits.—

32 (1) FOREIGN ALLOWANCES.—

33 (A) IN GENERAL.—A United States importer may submit, in lieu of an
34 international reserve allowance issued under this section, a foreign allowance
35 or similar compliance instrument distributed by a foreign country pursuant to a
36 cap and trade program that represents a comparable action.

37 (B) COMMENSURATE CAP AND TRADE PROGRAM.—For purposes of
38 subparagraph (A), a cap and trade program that represents a comparable action
39 shall include any greenhouse gas regulatory program adopted by a covered
40 foreign country to limit the greenhouse gas emissions of the covered foreign
41 country, if the President certifies that the program—

1 (i)(I) places a quantitative limitation on the total quantity of greenhouse
2 gas emissions of the covered foreign country (expressed in terms of tons
3 emitted per calendar year); and

4 (II) achieves that limitation through an allowance trading system;

5 (ii) satisfies such criteria as the President may establish for requirements
6 relating to the enforceability of the cap and trade program, including
7 requirements for monitoring, reporting, verification procedures, and
8 allowance tracking; and

9 (iii) is a comparable action.

10 (2) FOREIGN CREDITS.—

11 (A) IN GENERAL.—A United States importer may submit, in lieu of an
12 international reserve allowance issued under this section, a foreign credit or a
13 credit for an international offset project that the Administrator has authorized
14 for use under subtitle E of title II.

15 (B) APPLICATION.—The limitation on the use of international reserve
16 allowances by regulated entities under subsection (a)(6) shall not apply to a
17 United States importer for purposes of this paragraph.

18 (f) Retirement of Allowances.—The Administrator shall retire each international
19 reserve allowance, foreign allowance, and foreign credit submitted to achieve compliance
20 with this section.

21 (g) Consistency With International Agreements.—The Administrator, in consultation
22 with the Secretary of State, shall adjust the international reserve allowance requirements
23 established under this section (including the quantity of international reserve allowances
24 required for each category of covered goods of a covered foreign country) as the
25 Administrator determines to be necessary to ensure that the United States complies with
26 all applicable international agreements.

27 (h) Termination.—The international reserve allowance requirements of this section
28 shall not apply to a covered good of a covered foreign country in any case in which the
29 President makes a determination described in subsection (b)(2) with respect to the
30 covered goods of that covered foreign country.

31 (i) Final Regulations.—Not later than January 1, 2019, the Administrator shall
32 promulgate such regulations as the Administrator determines to be necessary to carry out
33 this section.

34 **SEC. 6007. ADJUSTMENT OF INTERNATIONAL**
35 **RESERVE ALLOWANCE REQUIREMENTS.**

36 (a) In General.—Not later than January 1, 2023, and annually thereafter, the President
37 shall prepare and submit to Congress a report that assesses the effectiveness of the
38 applicable international reserve allowance requirements under section 6006 with respect
39 to the covered goods of each covered foreign country.

40 (b) Inadequate Requirements.—If the President determines that an applicable

1 international reserve allowance requirement is not adequate to achieve the purposes of
2 this title, the President, simultaneously with the submission of the report under subsection
3 (a), shall—

4 (1) adjust the requirement; or

5 (2) take such other action as the President determines to be necessary to improve
6 the effectiveness of the requirement, in accordance with all applicable international
7 agreements.

8 (c) Effective Date.—An adjustment under subsection (b)(1) shall take effect beginning
9 on January 1 of the compliance year immediately following the date on which the
10 adjustment is made.

11 TITLE VII—REVIEWS

12 SEC. 7001. NATIONAL ACADEMY OF SCIENCES 13 REVIEW.

14 (a) Report.—

15 (1) IN GENERAL.—Not later than January 1, 2012, and every 3 years thereafter, the
16 Administrator shall offer to enter into a contract with the National Academy of
17 Sciences under which the Academy shall submit to Congress and the Administrator
18 reports evaluating the implementation of this Act.

19 (2) CONTENTS OF REPORT.—Each report submitted to Congress under paragraph
20 (1) shall include an analysis of—

21 (A) the extent to which the emission reductions required under this Act are
22 being achieved;

23 (B) the extent to which the emission reductions achieved under this Act,
24 taken together with actual steps taken by other countries to reduce greenhouse
25 gas emissions, is predicted to stabilize atmospheric greenhouse gas
26 concentrations at a level adequate to forestall dangerous anthropogenic
27 interference with the climate system;

28 (C) whether an increase of global average temperature in excess of 3.6
29 degrees Fahrenheit (2 degrees Celsius) above the preindustrial average has
30 occurred or is more likely than not to occur in the foreseeable future as a result
31 of anthropogenic climate change;

32 (D)(i) predicted changes in ocean acidity, the extent of coral reefs, and other
33 indicators of ocean ecosystem health due to anthropogenic carbon dioxide; and

34 (ii) any additional actions that should be taken by the United States or other
35 countries to protect the health of the oceans;

36 (E) the status of the best available science and the status of technologies to
37 reduce, sequester, or avoid greenhouse gas emissions;

38 (F) whether the percentage of allowances for any calendar year that are

1 auctioned, allocated, or devoted to other purposes under this Act should be
2 modified;

3 (G) the effectiveness of auction revenues in meeting the stated purposes of
4 this Act; and

5 (H) whether additional measures, including an increase in the earned income
6 tax credit, a reduction in payroll taxes, or the implementation of electronic
7 benefit transfers by State health and human services agencies to reach low-
8 income individuals who are not required to file Federal income tax returns, are
9 needed to help low- and moderate-income individuals respond to changes in the
10 cost of energy-related goods and services.

11 (b) Technology Reports.—

12 (1) DEFINITION.—In this subsection, the term “technologically infeasible,” with
13 respect to a technology, means that the technology—

14 (A) will not be demonstrated beyond laboratory-scale conditions;

15 (B) would be unsafe;

16 (C) would not reliably reduce greenhouse gas emissions; or

17 (D) would prevent the activity to which the technology applies from meeting
18 or performing the primary purpose of the activity (such as generating electricity
19 or transporting goods or individuals).

20 (2) REPORTS.—Not later than 180 days after the date of enactment of this Act, the
21 Administrator shall offer to enter into a contract with the National Academy of
22 Sciences under which the Academy, not later than 2 years after the date of
23 enactment of this Act and every 3 years thereafter, shall submit to Congress and the
24 Administrator a report that describes or analyzes—

25 (A) the status of current greenhouse gas emission reduction technologies,
26 including—

27 (i) technologies for capture and disposal of greenhouse gases;

28 (ii) efficiency improvement technologies;

29 (iii) zero-greenhouse gas emitting energy technologies; and

30 (iv) above- and below-ground biological sequestration technologies;

31 (B) whether the requirements of this Act (including regulations promulgated
32 under this Act)—

33 (i) promote the development and deployment of greenhouse gas
34 emission reduction technologies; or

35 (ii) mandate a level of emission control or reduction that, based on
36 available or expected technology, will be technologically infeasible at the
37 time at which the requirements become effective;

38 (C) the projected date on which any technology determined to be
39 technologically infeasible will become technologically feasible;

1 (D) whether any technology determined to be technologically infeasible
2 cannot reasonably be expected to become technologically feasible prior to
3 calendar year 2050; and

4 (E) the costs of available alternative greenhouse gas emission reduction
5 strategies that could be used or pursued in lieu of any technologies that are
6 determined to be technologically infeasible.

7 SEC. 7002. TRANSPORTATION SECTOR REVIEW.

8 (a) Review.—Not later than January 1, 2010, the Administrator shall conduct a
9 comprehensive review and analysis to determine whether any of the following have
10 occurred:

11 (1)(A) The motor vehicle fuel and motor vehicle and nonroad regulations within
12 the scope of Executive Order 13432 (72 Fed. Reg. 27717; relating to cooperation
13 among agencies in protecting the environment with respect to greenhouse gas
14 emissions from motor vehicles, nonroad vehicles, and nonroad engines) have been
15 finalized and implemented by Federal agencies and departments.

16 (B) Any other transportation-related programs, including corporate average fuel
17 economy standard reform, greenhouse gas vehicle emissions standards, renewable
18 fuel volume mandates, low carbon fuel standards, and activities to reduce vehicle
19 miles traveled have been finalized and implemented by a Federal agency or
20 department.

21 (2) Any regulation or program described in paragraph (1) is expected to achieve at
22 least 1 of the following, as compared to the baseline greenhouse gas emissions
23 consistent with the reference case contained in the report of the Energy Information
24 Administration entitled “Annual Energy Outlook 2006”:

25 (A) At least a 6.2-percent reduction in cumulative greenhouse gas emissions
26 from the light-duty motor vehicle sector, including light-duty vehicles and
27 light-duty trucks, during the period beginning on January 1, 2010, and ending
28 on December 31, 2020.

29 (B) A cumulative reduction of approximately 1,140,000 metric tons of
30 carbon dioxide equivalent, measured on a full fuel cycle basis.

31 (b) Report.—If the Administrator determines that a reduction described in subsection
32 (a)(2)(A) will not be achieved, the Administrator shall submit to Congress, not later than
33 January 1, 2010, a report describing—

34 (1) any additional action of the Administrator that will be necessary to reduce
35 greenhouse gas emissions from the light-duty motor vehicle sector; and

36 (2) recommendations of the Administrator with respect to actions that could be
37 established by Congress to ensure that the United States transportation sector will
38 achieve—

39 (A) the reductions described in subsection (a)(2)(B); and

40 (B) any additional reductions necessary for that sector to assume an equitable

1 share of responsibility for reducing greenhouse gas emissions.

2 SEC. 7003. ADAPTATION REVIEW.

3 (a) Regional Estimates.—

4 (1) ESTIMATES.—

5 (A) IN GENERAL.—The Administrator, in consultation with the officials
6 described in paragraph (2) and relevant State agencies, shall conduct 6 regional
7 infrastructure cost assessments in various regions of the United States, and a
8 national cost assessment, to provide estimates of the range of costs that should
9 be anticipated for adaptation to the impacts of climate change.

10 (B) VARIOUS PROBABILITIES.—The Administrator shall develop the estimates
11 under subparagraph (A) for low, medium, and high probabilities of climate
12 change and the potential impacts of climate change.

13 (2) DESCRIPTION OF OFFICIALS.—The officials referred to in paragraph (1) are—

14 (A) the Secretary of Agriculture;

15 (B) the Secretary of Commerce;

16 (C) the Secretary of Defense;

17 (D) the Secretary of Energy;

18 (E) the Secretary of Health and Human Services;

19 (F) the Secretary of Homeland Security;

20 (G) the Secretary of Housing and Urban Development;

21 (H) the Secretary of the Interior;

22 (I) the Secretary of Transportation;

23 (J) the Director of United States Geological Survey; and

24 (K) the heads of such other Federal agencies and departments as the
25 Administrator determines to be necessary.

26 (3) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment
27 of this Act, the Administrator shall submit to Congress a report describing the results
28 of the assessments conducted under this subsection.

29 (b) Adaptation Plan.—

30 (1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act,
31 the Administrator shall submit to Congress a climate change adaptation plan for the
32 United States, based on—

33 (A) assessments performed by the United Nations Intergovernmental Panel
34 on Climate Change in accordance with the Global Change Research Act of
35 1990 (15 U.S.C. 2921 et seq.); and

36 (B) any other scientific, peer-reviewed regional assessments.

- 1 (2) INCLUSIONS.—The adaptation plan under paragraph (1) shall include—
2 (A) a prioritized list of vulnerable systems and regions in the United States;
3 (B) requirements for coordination between Federal, State, and local
4 governments to ensure that key public infrastructure, safety, health, and land
5 use planning and control issues are addressed;
6 (C) requirements for coordination among the Federal Government, industry,
7 and communities;
8 (D) an assessment of climate change science research needs, including
9 probabilistic assessments as an aid to planning;
10 (E) an assessment of climate change technology needs; and
11 (F) regional and national cost assessments for the range of costs that should
12 be anticipated for adapting to the impacts of climate change.
- 13 (c) Impacts of Climate Change on Low-Income Populations.—
14 (1) IN GENERAL.—The Administrator shall conduct research on the impact of
15 climate change on low-income populations in all countries, including—
16 (A) an assessment of the adverse impact of climate change on—
17 (i) low-income populations in the United States; and
18 (ii) developing countries;
19 (B)(i) an identification of appropriate climate change adaptation measures
20 and programs for developing countries and low-income populations;
21 (ii) an assessment of the impact of the measures and programs on low-
22 income populations; and
23 (C) an estimate of the costs of developing and implementing those climate
24 change adaptation and mitigation programs.
- 25 (2) REPORT.—Not later than 1 year after the date of enactment of this Act, the
26 Administrator shall submit to Congress a report describing the results of the research
27 conducted under paragraph (1).

28 **TITLE VIII—FRAMEWORK FOR GEOLOGICAL**
29 **SEQUESTRATION OF CARBON DIOXIDE**

30 **SEC. 8001. NATIONAL DRINKING WATER**
31 **REGULATIONS.**

32 Section 1421(b) of the Safe Drinking Water Act (42 U.S.C. 300h) is amended by
33 adding at the end the following:

34 “(e) CARBON DIOXIDE.—

35 “(1) REGULATIONS.—Not later than 1 year after the date of enactment of this
36 paragraph, the Administrator shall promulgate regulations for permitting

1 commercial-scale underground injection of carbon dioxide for purposes of
2 geological sequestration to address climate change, including provisions—

3 “(A) for monitoring and controlling the long-term storage of carbon
4 dioxide and avoiding to the extent possible any release of carbon dioxide
5 into the atmosphere, and for ensuring protection of underground sources
6 of drinking water, human health, and the environment; and

7 “(B) relating to long-term liability associated with commercial-scale
8 geological sequestration.

9 “(2) SUBSEQUENT REPORTS.—Not later than 5 years after the date on which
10 regulations are promulgated pursuant to paragraph (1), and not less frequently
11 than once every 5 years thereafter, the Administrator shall submit to Congress a
12 report that contains an evaluation of the effectiveness of the regulations, based
13 on current knowledge and experience, with particular emphasis on any new
14 information on potential impacts of commercial-scale geological sequestration
15 on drinking water, human health, and the environment.

16 “(3) REVISION.—If the Administrator determines, based on a report under
17 paragraph (2), that regulations promulgated pursuant to paragraph (1) require
18 revision, the Administrator shall promulgate revised regulations not later than 1
19 year after the date on which the applicable report is submitted to Congress
20 under paragraph (2).”.

21 SEC. 8002. ASSESSMENT OF GEOLOGICAL 22 STORAGE CAPACITY FOR CARBON DIOXIDE.

23 (a) Definitions.—In this section:

24 (1) ASSESSMENT.—The term “assessment” means the national assessment of
25 capacity for carbon dioxide completed under subsection (f).

26 (2) CAPACITY.—The term “capacity” means the portion of a storage formation
27 that can retain carbon dioxide in accordance with the requirements (including
28 physical, geological, and economic requirements) established under the
29 methodology developed under subsection (b).

30 (3) ENGINEERED HAZARD.—The term “engineered hazard” includes the location
31 and completion history of any well that could affect a storage formation or capacity.

32 (4) RISK.—The term “risk” includes any risk posed by a geomechanical,
33 geochemical, hydrogeological, structural, or engineered hazard.

34 (5) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting
35 through the Director of the United States Geological Survey.

36 (6) STORAGE FORMATION.—The term “storage formation” means a deep saline
37 formation, unmineable coal seam, or oil or gas reservoir that is capable of
38 accommodating a volume of industrial carbon dioxide.

39 (b) Methodology.—Not later than 1 year after the date of enactment of this Act, the
40 Secretary shall develop a methodology for conducting an assessment under subsection

1 (f), taking into consideration—

- 2 (1) the geographical extent of all potential storage formations in all States;
3 (2) the capacity of the potential storage formations;
4 (3) the injectivity of the potential storage formations;
5 (4) an estimate of potential volumes of oil and gas recoverable by injection and
6 storage of industrial carbon dioxide in potential storage formations;
7 (5) the risk associated with the potential storage formations; and
8 (6) the work performed to develop the Carbon Sequestration Atlas of the United
9 States and Canada completed by the Department of Energy in April 2006.

10 (c) Coordination.—

11 (1) FEDERAL COORDINATION.—

12 (A) CONSULTATION.—The Secretary shall consult with the Secretary of
13 Energy and the Administrator regarding data sharing and the format,
14 development of methodology, and content of the assessment to ensure the
15 maximum usefulness and success of the assessment.

16 (B) COOPERATION.—The Secretary of Energy and the Administrator shall
17 cooperate with the Secretary to ensure, to the maximum extent practicable, the
18 usefulness and success of the assessment.

19 (2) STATE COORDINATION.—The Secretary shall consult with State geological
20 surveys and other relevant entities to ensure, to the maximum extent practicable, the
21 usefulness and success of the assessment.

22 (d) External Review and Publication.—On completion of the methodology under
23 subsection (b), the Secretary shall—

24 (1) publish the methodology and solicit comments from the public and the heads
25 of affected Federal and State agencies;

26 (2) establish a panel of individuals with expertise in the matters described in
27 paragraphs (1) through (5) of subsection (b) composed, as appropriate, of
28 representatives of Federal agencies, institutions of higher education,
29 nongovernmental organizations, State organizations, industry, and international
30 geosciences organizations to review the methodology and comments received under
31 paragraph (1); and

32 (3) on completion of the review under paragraph (2), publish in the Federal
33 Register the revised final methodology.

34 (e) Periodic Updates.—The methodology developed under this section shall be updated
35 periodically (including not less frequently than once every 5 years) to incorporate new
36 data as the data becomes available.

37 (f) National Assessment.—

38 (1) IN GENERAL.—Not later than 2 years after the date of publication of the
39 methodology under subsection (d)(3), the Secretary, in consultation with the

1 Secretary of Energy and State geological surveys, shall complete a national
2 assessment of the capacity for carbon dioxide storage in accordance with the
3 methodology.

4 (2) GEOLOGICAL VERIFICATION.—As part of the assessment, the Secretary shall
5 carry out a drilling program to supplement the geological data relevant to
6 determining storage capacity in carbon dioxide in geological storage formations,
7 including—

8 (A) well log data;

9 (B) core data; and

10 (C) fluid sample data.

11 (3) PARTNERSHIP WITH OTHER DRILLING PROGRAMS.—As part of the drilling
12 program under paragraph (2), the Secretary shall enter into partnerships, as
13 appropriate, with other entities to collect and integrate data from other drilling
14 programs relevant to the storage of carbon dioxide in geologic formations.

15 (4) INCORPORATION INTO NATCARB.—

16 (A) IN GENERAL.—On completion of the assessment, the Secretary shall
17 incorporate the results of the assessment using, to the maximum extent
18 practicable—

19 (i) the NatCarb database; or

20 (ii) a new database developed by the Secretary, as the Secretary
21 determines to be necessary.

22 (B) RANKING.—The database shall include the data necessary to rank
23 potential storage sites—

24 (i) for capacity and risk;

25 (ii) across the United States;

26 (iii) within each State;

27 (iv) by formation; and

28 (v) within each basin.

29 (5) REPORT.—Not later than 180 days after the date on which the assessment is
30 completed, the Secretary shall submit to the Committee on Energy and Natural
31 Resources of the Senate and the Committee on Science and Technology of the
32 House of Representatives a report describing the results of the assessment.

33 (6) PERIODIC UPDATES.—The assessment shall be updated periodically (including
34 not less frequently than once every 5 years) as necessary to support public and
35 private sector decisionmaking, as determined by the Secretary.

36 **SEC. 8003. STUDY OF THE FEASIBILITY RELATING**
37 **TO CONSTRUCTION OF PIPELINES AND**

1 **GEOLOGICAL CARBON DIOXIDE SEQUESTRATION**
2 **ACTIVITIES.**

3 (a) In General.—The Secretary of Energy, in coordination with the Administrator, the
4 Federal Energy Regulatory Commission, the Secretary of Transportation, and the
5 Secretary of the Interior, shall conduct a study to assess the feasibility of the construction
6 of—

7 (1) pipelines to be used for the transportation of carbon dioxide for the purpose of
8 sequestration or enhanced oil recovery; and

9 (2) geological carbon dioxide sequestration facilities.

10 (b) Scope.—The study shall consider—

11 (1) any barrier or potential barrier in existence as of the date of enactment of this
12 Act, including any technical, siting, financing, or regulatory barrier, relating to—

13 (A) the construction of pipelines to be used for the transportation of carbon
14 dioxide for the purpose of sequestration or enhanced oil recovery; or

15 (B) the geological sequestration of carbon dioxide;

16 (2) any market risk (including throughput risk) relating to—

17 (A) the construction of pipelines to be used for the transportation of carbon
18 dioxide for the purpose of sequestration or enhanced oil recovery; or

19 (B) the geological sequestration of carbon dioxide;

20 (3) any regulatory, financing, or siting option that, as determined by the Secretary
21 of Energy, would—

22 (A) mitigate any market risk described in paragraph (2); or

23 (B) help ensure the construction of pipelines dedicated to the transportation
24 of carbon dioxide for the purpose of sequestration or enhanced oil recovery;

25 (4) the means by which to ensure the safe handling and transportation of carbon
26 dioxide;

27 (5) any preventive measure to ensure the integration of pipelines to be used for the
28 transportation of carbon dioxide for the purpose of sequestration or enhanced oil
29 recovery; and

30 (6) any other appropriate use, as determined by the Secretary of Energy, in
31 coordination with the Administrator, the Federal Energy Regulatory Commission,
32 the Secretary of Transportation, and the Secretary of the Interior.

33 (c) Report.—Not later than 180 days after the date of enactment of this Act, the
34 Secretary of Energy shall submit to the Congress a report describing the results of the
35 study.

36 **SEC. 8004. LIABILITIES FOR CLOSED GEOLOGICAL**
37 **STORAGE SITES.**

1 (a) Establishment of Task Force.—As soon as practicable after the date of enactment
2 of this Act, the Administrator shall establish a task force, to be composed of an equal
3 number of stakeholders, the public, subject matter experts, and members of the private
4 sector, to conduct a study of the legal framework, environmental and safety
5 considerations, and cost implications of potential Federal assumption of liability with
6 respect to closed geological storage sites.

7 (b) Report.—Not later than 18 months after the date of enactment of this Act, the task
8 force established under subsection (a) shall submit to Congress a report describing the
9 results of the study conducted under subsection (a), including recommendations of the
10 task force, if any, with respect to the framework described in that subsection.

11 TITLE IX—MISCELLANEOUS

12 SEC. 9001. PARAMOUNT INTEREST WAIVER.

13 (a) In General.—If the President determines that a national security emergency exists
14 and, in light of information that was not available as of the date of enactment of this Act,
15 it is in the paramount interest of the United States to modify any requirement under this
16 Act to minimize the effects of the emergency, the President may, after opportunity for
17 public notice and comment, temporarily adjust, suspend, or waive any regulations
18 promulgated pursuant to this Act to achieve that minimization.

19 (b) Consultation.—In making an emergency determination under subsection (a), the
20 President shall, to the maximum extent practicable, consult with and take into account
21 any advice received from—

- 22 (1) the National Academy of Sciences;
- 23 (2) the Secretary of Energy; and
- 24 (3) the Administrator.

25 (c) Judicial Review.—An emergency determination under subsection (a) shall be
26 subject to judicial review in accordance with section 307 of the Clean Air Act (42 U.S.C.
27 7607).

28 SEC. 9002. CORPORATE ENVIRONMENTAL 29 DISCLOSURE OF CLIMATE CHANGE RISKS.

30 (a) Regulations.—Not later than 2 years after the date of enactment of this Act, the
31 Securities and Exchange Commission (referred to in this section as the “Commission”)
32 shall promulgate regulations in accordance with section 13 of the Securities Exchange
33 Act of 1934 (15 U.S.C. 78m) directing each issuer of securities under that Act, to inform,
34 based on the current expectations and projections and knowledge of facts of the issuer,
35 securities investors of material risks relating to—

- 36 (1) the financial exposure of the issuer because of the net global warming
37 pollution emissions of the issuer; and
- 38 (2) the potential economic impacts of global warming on the interests of the
39 issuer.

1 (b) Uniform Format for Disclosure.—In carrying out subsection (a), the Commission
2 shall enter into an agreement with the Financial Accounting Standards Board, or another
3 appropriate organization that establishes voluntary standards, to develop a uniform
4 format for disclosing to securities investors information on the risks described in
5 subsection (a).

6 (c) Interim Interpretive Release.—

7 (1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the
8 Commission shall issue an interpretive release clarifying that under items 101 and
9 303 of Regulation S-K of the Commission under part 229 of title 17, Code of
10 Federal Regulations (as in effect on the date of enactment of this Act)—

11 (A) the commitments of the United States to reduce emissions of global
12 warming pollution under the United Nations Framework Convention on
13 Climate Change, done at New York on May 9, 1992, are considered to be a
14 material effect; and

15 (B) global warming constitutes a known trend.

16 (2) PERIOD OF EFFECTIVENESS.—The interpretive release issued under paragraph
17 (1) shall remain in effect until the effective date of the final regulations promulgated
18 under subsection (a).

19 SEC. 9003. ADMINISTRATIVE PROCEDURE AND 20 JUDICIAL REVIEW.

21 (a) Rulemaking Procedures.—Any rule, requirement, regulation, method, standard,
22 program, determination, or final action made or promulgated pursuant to any title of this
23 Act, with the exception of sections 3101, 3201, 3301, and 3901, shall be subject to the
24 rulemaking procedures described in sections 551 through 557 of title 5, United States
25 Code.

26 (b) Enforcement.—Each provision of this Act (including provisions relating to
27 mandatory duties of the Administrator) shall be fully enforceable pursuant to sections
28 113, 303, and 304 of the Clean Air Act (42 U.S.C. 7413, 7603, 7604).

29 (c) Recordkeeping, Inspections, Monitoring, Entry, and Subpoenas.—The
30 Administrator shall have the same powers and authority provided under sections 114 and
31 307(a) of the Clean Air Act (42 U.S.C. 7414, 7607(a)) in carrying out, administering, and
32 enforcing this Act.

33 (d) Judicial Review.—A petition for judicial review of any regulation promulgated, or
34 final action carried out, by the Administrator pursuant to this Act may be filed only—

35 (1) in the United States Court of Appeals for the District of Columbia; and

36 (2) in accordance with section 307(b) of the Clean Air Act (42 U.S.C. 7607(b)).

37 SEC. 9004. RETENTION OF STATE AUTHORITY.

38 (a) In General.—Except as provided in subsection (b), in accordance with section 116
39 of the Clean Air Act (42 U.S.C. 7416) and section 510 of the Federal Water Pollution

1 Control Act (33 U.S.C. 1370), nothing in this Act precludes or abrogates the right of any
2 State to adopt or enforce—

3 (1) any standard, cap, limitation, or prohibition relating to emissions of
4 greenhouse gas; or

5 (2) any requirement relating to control, abatement, or avoidance of emissions of
6 greenhouse gas.

7 (b) Exception.—Notwithstanding subsection (a), no State may adopt a standard, cap,
8 limitation, prohibition, or requirement that is less stringent than the applicable standard,
9 cap, limitation, prohibition, or requirement under this Act.

10 **SEC. 9005. TRIBAL AUTHORITY.**

11 For purposes of this Act, the Administrator may treat any federally recognized Indian
12 tribe as a State, in accordance with section 301(d) of the Clean Air Act (42 U.S.C.
13 7601(d)).

14 **SEC. 9006. AUTHORIZATION OF APPROPRIATIONS.**

15 There are authorized to be appropriated such sums as are necessary to carry out this
16 Act.
17