[DISCUSSION DRAFT]

MARCH 31, 2009

111TH
CONGRESS
1ST SESSION

H. R. __

To [to be supplied].

IN THE HOUSE OF REPRESENTATIVES

M_. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To [to be supplied].

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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(a) SHORT TITLE.—This Act may be cited as the "American Clean Energy and Security Act of 2009".

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

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(a) IN GENERAL.—Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 and following) is amended by adding at the end the following:

"SEC. 610. FEDERAL RENEWABLE ELECTRICITY STANDARD.

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

"(1) AFFILIATE.—The term 'affiliate' when used in relation to a person, means another person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, such person, as determined under regulations promulgated by the Secretary.

"(2) BIOMASS.—The term 'biomass' means each of the following:

"(A) Crops, crop byproducts, or crop residues harvested from actively managed or fallow agricultural land that was cleared prior to the date of enactment of this section and is nonforested.

"(B) Planted trees, brush, slash, and all residues from an actively managed tree plantation located on land that was cleared prior to the date of enactment of this section and is not Federal land.

"(C) Pre-commercial-sized thinnings, slash, brush, and residue from milled trees, from forested land that is not—

"(i) old-growth or mature forest;

"(ii) identified under a State Natural Heritage Program as rare, imperiled, or critically imperiled; or

"(iii) Federal land.

"(D) Algae.

"(E) Nonhazardous plant matter derived from waste such as separated yard waste, landscape right-of-way trimmings, or food waste (but not municipal solid waste, recyclable waste paper, painted, treated or pressurized wood, or wood contaminated with plastic or metals).

"(F) Animal waste or animal byproducts, including products of animal waste digesters.

"(G) Vegetative matter removed from within 200 yards of any manmade structure or campground.

"(3) DISTRIBUTED GENERATION FACILITY.—The term 'distributed generation facility' means a facility that—

"(A) generates renewable electricity other than by means of combustion;

"(B) primarily serves 1 or more electricity consumers at or near the facility site; and

"(C) is no larger than 2 megawatts in capacity.

"(4) FEDERAL ALTERNATIVE COMPLIANCE PAYMENT.—The term 'Federal alternative compliance payment' means a payment, to be submitted in lieu of 1 Federal renewable electricity credit, pursuant to subsection (c)(3).

"(5) FEDERAL LAND.—The term 'Federal land' means land owned by the United States, other than land held in trust for an Indian or Indian tribe.

"(6) FEDERAL RENEWABLE ELECTRICITY CREDIT.—The term 'Federal renewable electricity credit' means a credit, representing one megawatt hour of renewable electricity, issued pursuant to subsection (d).

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

"(8) FUND.—The term 'Fund' means the Renewable Electricity Deployment Fund established under subsection (f).

"(9) QUALIFIED HYDROPOWER.—The term 'qualified hydropower' means—

"(A) electricity generated solely from increased efficiency achieved, or additions of capacity made, on or after January 1, 2001 at a hydroelectric facility that was placed in service before that date; or

"(B) electricity generated from generating capacity added on or after January 1, 2001 to a dam that did not

previously have the capacity to generate electricity, provided that the Commission certifies that—

"(i) the dam was placed in service before the date of the enactment of this section and was operated for flood control, navigation, or water supply purposes and did not produce hydroelectric power before January 1, 2001;

"(ii) the hydroelectric project installed on the dam is licensed by the Commission and meets all other applicable environmental, licensing, and regulatory requirements, including applicable fish passage requirements; and

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

"(10) RENEWABLE ELECTRICITY.—The term 'renewable electricity' means electricity generated (including by means of a fuel cell) from a renewable energy resource.

"(11) RENEWABLE ENERGY RESOURCE.—The term 'renewable energy resource' means each of the following:

"(A) Wind energy.

"(B) Solar energy.

"(C) Geothermal energy.

"(D) Biomass or landfill gas.

"(E) Qualified hydropower.

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

"(12) RETAIL ELECTRIC SUPPLIER.—

"(A) IN GENERAL.—The term 'retail electric supplier' means, for any given year, an electric utility that sold not less than 1,000,000 megawatt hours of electric energy to electric consumers for purposes other than resale during the preceding calendar year.

"(B) INCLUSIONS AND LIMITATIONS.—For purposes of determining whether an electric utility qualifies as a retail electric supplier under subparagraph (A)—

"(i) the sales of any affiliate of an electric utility to electric consumers for purposes other than resale shall be considered to be sales of such electric utility; and

"(ii) sales by any electric utility to an affiliate, lessee, or tenant of such electric utility shall not be treated as sales to electric consumers.

"(13) RETAIL ELECTRIC SUPPLIER'S BASE AMOUNT.—The term 'retail electric supplier's base amount' means the total amount of electric energy sold by the retail electric supplier, expressed in terms of megawatt hours, to electric customers for purposes other than resale during the relevant calendar year, excluding electricity generated by—

"(A) a hydroelectric facility that is not qualified hydropower; or

"(B) combustion of municipal solid waste.

"(14) RETIRE AND RETIREMENT.—The terms 'retire' and 'retirement' with respect to a Federal renewable electricity

credit, means to disqualify such credit for any subsequent use under this section, regardless of whether the use is a sale, transfer, exchange, or submission in satisfaction of a compliance obligation.

"(b) ESTABLISHMENT OF PROGRAM.—Not later than 1 year after the date of enactment of this section, the Secretary shall, by regulation, establish a program to implement and enforce the requirements of this section. In establishing such program, the Secretary shall, to the extent practicable—

"(1) preserve the integrity, and incorporate best practices, of existing State renewable electricity programs;

"(2) rely upon existing and emerging State or regional tracking systems that issue and track non-Federal renewable electricity credits; and

"(3) cooperate with the States to facilitate coordination between State and Federal renewable electricity programs and to minimize administrative burdens and costs to retail electric suppliers.

"(c) ANNUAL COMPLIANCE REQUIREMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (3), for each of calendar years 2012 through 2039, each retail electric supplier shall, not later than April 1 of the following calendar year, submit to the Secretary a quantity of Federal renewable electricity credits equal to the retail electric supplier's base amount for the calendar year multiplied by the required annual percentage set forth in paragraph (2). The Secretary shall retire each Federal renewable energy credit immediately upon submission under this section.

"(2) REQUIRED ANNUAL PERCENTAGE.—For each of calendar years 2012 through 2039, the required annual percentage shall be as follows:

2012	6.0
2013	6.0

2014	8.5
2015	8.5
2016	11.0
2017	11.0
2018	14.0
2019	14.0
2020	17.5
2021	17.5
2022	21.0
2023	21.0
2024	23.0
2025 through 2039	25.0

"(3) EFFICIENCY COMPLIANCE OPTION.—The Governor of a State (including, for purposes of this section, the Mayor of the District of Columbia), may petition the Secretary to reduce, by up to one fifth, the required annual percentage under paragraph (2) in any given year that shall be applied to the portion of any retail electric supplier's base amount that is sold to electric customers located within such State for purposes other than resale. The Secretary shall grant such petition if the Secretary determines that the entities within the State that are subject to the Federal Energy Efficiency Resource Standard established under section 611 of this Act are in compliance with such standard for such year.

"(4) ALTERNATIVE COMPLIANCE PAYMENTS.—A retail electric supplier may satisfy the requirements of paragraph (1) (as modified, where applicable, under paragraph (3)) in whole or in part by submitting in lieu of each Federal renewable electricity credit that would otherwise be due, a payment equal to the lesser of—

"(A) 200 percent of the average market value of a Federal renewable electricity credit for the previous compliance year, as determined by the Secretary; or

"(B) $50, adjusted on January 1 of each year following calendar year 2009 based on the Gross Domestic Product Implicit Price Deflator.

"(5) USE OF PAYMENTS.—Alternative compliance payments submitted pursuant to paragraph (4) shall be deposited in the Fund established under subsection (f).

"(d) FEDERAL RENEWABLE ELECTRICITY CREDITS.—

"(1) IN GENERAL.—The regulations promulgated under subsection (b) shall include provisions governing the issuance, tracking, and verification of Federal renewable electricity credits. Except as provided in paragraphs (2), (3), and (4) of this subsection, the Secretary shall issue to each generator of renewable electricity, 1 Federal renewable electricity credit for each megawatt hour of renewable electricity generated by such generator. The Secretary shall assign a unique serial number to each Federal renewable electricity credit.

"(2) GENERATION FROM STATE RENEWABLE ELECTRICITY PROGRAMS USING CENTRAL PROCUREMENT AND FROM STATE ALTERNATIVE COMPLIANCE PAYMENTS.—Where renewable electricity is generated with the support of payments from a retail electric supplier pursuant to a State renewable electricity program (whether through State alternative compliance payments or through payments to a State renewable electricity procurement fund or entity), the Secretary shall issue Federal renewable electricity credits to such retail electric supplier for the proportion of the relevant renewable electricity generation that is attributable to the retail electric supplier's payments, as determined pursuant to regulations issued by the Secretary. For any remaining portion of the relevant renewable electricity generation, the Secretary shall issue Federal renewable electricity credits to the generator, as provided in paragraph (1), provided that in no event shall more than 1 Federal renewable electricity credit be issued for the same megawatt hour of electricity. In determining how Federal renewable electricity credits will be apportioned among retail electric suppliers and generators in such circumstances, the Secretary shall consider information and guidance furnished by the relevant State or States.

"(3) CERTAIN POWER SALES CONTRACTS.—When a generator has sold renewable electricity to a retail electric supplier under a contract for power from a facility placed in service before the date of enactment of this section, and the contract does not provide for the determination of ownership of the Federal renewable electricity credits associated with such generation, the Secretary shall issue such Federal renewable electricity credits to the retail electric supplier for the duration of the contract.

"(4) CREDIT MULTIPLIER FOR DISTRIBUTED GENERATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall issue 3 Federal renewable electricity credits for each megawatt hour of renewable electricity generated by a distributed generation facility.

"(B) ADJUSTMENT.—Except as provided in subparagraph (C), not later than January 1, 2014, and not less frequently than every 4 years thereafter, the Secretary shall review the effect of this paragraph and shall, as necessary, reduce the number of Federal renewable electricity credits per megawatt hour issued under this paragraph, but not below 1, to ensure that such number is no higher than the Secretary determines is necessary to make distributed generation facilities cost competitive with other sources of renewable electricity generation.

"(C) FACILITIES PLACED IN SERVICE AFTER ENACTMENT.—For any distributed generation facility placed in service after the date of enactment of this section, subparagraph (B) shall not apply for the first 10 years after date of enactment. For each year during such 10-year period, the Secretary shall issue the facility the same number of Federal renewable electricity credits per megawatt hour as are issued to that facility in the year in which such facility is placed in service. After such 10-

year period, the Secretary shall issue Federal renewable energy credits to the facility in accordance with the current multiplier as determined pursuant to subparagraph (B).

"(5) CREDITS BASED ON INCREMENTAL HYDROPOWER.—For purposes of this subsection, the number of Federal renewable electricity credits issued for qualifying hydropower described in subsection (a)(9)(A) shall be calculated—

"(A) based solely on the increase in average annual generation directly resulting from the efficiency improvements or capacity additions described in subsection (a)(9)(A); and

"(B) using the same water flow information used to determine a historic average annual generation baseline for the hydroelectric facility, as certified by the Secretary or by the Commission.

"(6) GENERATION FROM MIXED RENEWABLE AND NON-RENEWABLE RESOURCES.—If electricity is generated using both a renewable energy resource and an energy source that is not a renewable energy resource (as, for example, in the case of co-firing of biomass and fossil fuel), the Secretary shall issue Federal renewable electricity credits based on the proportion of the electricity that is attributable to the renewable energy resource.

"(7) PROHIBITION AGAINST DOUBLE-COUNTING.—Except as provided in paragraph (4) of this subsection, the Secretary shall ensure that no more than 1 Federal renewable electricity credit will be issued for any megawatt hour of renewable electricity and that no Federal renewable electricity credit will be used more than once for compliance with this section.

"(e) TRADING, BANKING, AND MARKET OVERSIGHT.—

"(1) TRADING.—The lawful holder of a Federal renewable electricity credit may sell, exchange, transfer, submit for compliance in accordance with subsection (c), or submit such credit for retirement by the Secretary.

"(2) BANKING.—A Federal renewable electricity credit may be submitted in satisfaction of the compliance obligation set forth in subsection (c) for the compliance year in which the credit was issued or for any of the 3 immediately subsequent compliance years. The Secretary shall retire any Federal renewable electricity credit that has not been submitted under subsection (c) by the deadline for the compliance year that is 3 years after the compliance year in which the credit was issued.

"(3) OVERSIGHT.—The Commission, in consultation with the Secretary and relevant Federal agencies, may prescribe such rules as the Commissioner determines necessary to ensure the transparency, fairness, and stability of the market in Federal renewable electricity credits and any derivative instruments based on such credits.

"(f) RENEWABLE ELECTRICITY DEPLOYMENT FUND.—

"(1) IN GENERAL.—There is established in the Treasury of the United States a Renewable Electricity Deployment Fund.

"(2) DEPOSITS.—All Federal alternative compliance payments submitted to the Secretary pursuant to subsection (c)(3) and civil penalties assessed under this section shall be deposited into the Fund.

"(3) USE.—

"(A) IN GENERAL.—Amounts deposited in the Fund shall be available exclusively for use by the Secretary, subject to appropriations, to make payments to retail electric suppliers in accordance with subparagraph (B).

"(B) ALLOCATION.—Not later than May 1 of each year from 2013 through 2040, the Secretary shall distribute amounts deposited in the Fund during the preceding 12-month period among the retail electric suppliers which have submitted Federal renewable electricity credits to the Secretary in total or partial compliance with their obligations under subsection (c) for the preceding calendar year. Each retail electric supplier shall receive a payment equal to the product of—

"(i) the total payments made to all retail electric suppliers under this subsection; and

"(ii) the quotient obtained by dividing the quantity specified in subclause (I) by the quantity specified in subclause (II):

"(I) The quantity of Federal renewable electricity credits submitted by the retail electric supplier for the preceding calendar year pursuant to subsection (c).

"(II) The total quantity of Federal renewable electricity credits submitted by all retail electric suppliers for the preceding calendar year pursuant to subsection (c).

"(g) INFORMATION COLLECTION.—In accordance with section 13 of the Federal Energy Administration Act of 1974 (15 U.S.C. 772), the Secretary may require any retail electric supplier, renewable electricity generator, or such other entities as the Secretary deems appropriate, to provide any information the Secretary determines appropriate to carry out this section.

"(h) ENFORCEMENT AND JUDICIAL REVIEW.—

"(1) CIVIL PENALTY.—If any person fails to comply with the requirements of subsection (c), such person shall be liable to pay to the Secretary a civil penalty equal to the product of—

"(A) double the Federal alternative compliance payment calculated under subsection (c)(3), and

"(B) the aggregate quantity of Federal renewable electricity credits (or equivalent Federal alternative compliance payments) that the person failed to submit to the Secretary in violation of the requirements of subsection (c).

"(2) ENFORCEMENT.—The Secretary shall assess a civil penalty under paragraph (1) in accordance with the procedures described in section 333(d) of the Energy Policy and Conservation Act of 1954 (42 U.S.C. 6303).

"(3) JUDICIAL REVIEW.—Any person who will be adversely affected by a final action taken by the Secretary under this section, other than the assessment of a civil penalty under this subsection, may use the procedures for review described in section 336(b) of the Energy Policy and Conservation Act (42 U.S.C. 6306). For purposes of this paragraph, references to a rule in section 336(b) of the Energy Policy and Conservation Act shall be deemed to refer also to all other final actions of the Secretary under this section other than the assessment of a civil penalty under this subsection.

"(i) SAVINGS PROVISIONS.—Nothing in this section shall—

"(1) diminish or qualify any authority of a State or political subdivision of a State to—

"(A) adopt or enforce any law or regulation respecting renewable electricity, including programs that exceed the required amount of renewable electricity under this section, provided that no such law or regulation may relieve any person of any requirement otherwise applicable under this section; or

"(B) regulate the acquisition and disposition of Federal renewable electricity credits by retail electric suppliers located within the territory of such State or political subdivision, including the authority to require

such retail electric supplier to acquire and retire Federal renewable electricity credits associated with electric energy it sells to end-use customers; or

"(2) affect the application of, or the responsibility for compliance with, any other provision of law or regulation, including environmental and licensing requirements.

"(j) SUNSET.—This section expires on December 31, 2040.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 and following) is amended by adding at the end of the items relating to title VI the following:

"Sec. 610. Federal renewable electricity standard".

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(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency (in this section referred to as the "Administrator"), in consultation with the Secretary of Energy (in this section referred to as the "Secretary") and the heads of such other relevant Federal agencies as the President may designate, shall submit to Congress a report setting forth a unified and comprehensive strategy to address the key legal and regulatory barriers to the commercial-scale deployment of carbon capture and sequestration.

(b) BARRIERS.— The report under this subsection shall—

(1) identify those regulatory and legal barriers that could be addressed by a Federal agency using existing statutory authority, those, if any, that require Federal legislation, and those that would be best addressed at the State or regional level; and

(2) recommend rulemakings, Federal legislation, or other actions that should be taken to remove such barriers.

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(a) COORDINATED CERTIFICATION AND PERMITTING PROCESS.—Title VIII of the Clean Air Act, as added by section 331 of this Act, is amended by adding after section 812 (as added by section 116 of this Act) the following:

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"(a) COORDINATED PROCESS.—The Administrator shall establish a coordinated approach to certifying and permitting geologic sequestration sites, taking into consideration all relevant statutory authorities. In establishing such approach, the Administrator shall—

"(1) take into account, and reduce redundancy with, the requirements of section 1421 of the Safe Drinking Water Act (42 U.S.C. 300h(d)), as amended by section 112(b) of the American Clean Energy and Security Act of 2009; and

"(2) to the extent practicable, reduce the burden on certified entities and implementing authorities.

"(b) REGULATIONS.—Not later than 2 years after the date of enactment of this title, the Administrator shall promulgate regulations to protect human health and the environment by minimizing the risk of escape to the atmosphere of carbon dioxide injected for purposes of geologic sequestration, including enhanced hydrocarbon recovery combined with geologic sequestration.

"(c) REQUIREMENTS.—The regulations under subsection (b) shall include—

"(1) a process to obtain certification of a geologic sequestration site under this section; and

"(2) requirements for—

"(A) monitoring, record keeping, and reporting for emissions associated with injection into, and escape from, geologic sequestration sites, taking into account any requirements or protocols developed under section 713;

"(B) public participation in the certification process that maximizes transparency;

"(C) the sharing of data between States, Indian tribes, and the Environmental Protection Agency; and

"(D) other elements or safeguards necessary to achieve the purpose in subsection (b).

"(d) REPORT.—Not later than 2 years after the enactment of this title, and at 3-year intervals thereafter, the Administrator shall deliver to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate, a report on geologic sequestration in the United States, and to the extent relevant, other countries in North America. Such report shall include—

"(1) data regarding injection, emissions to the atmosphere, if any, and performance of active and closed geologic sequestration sites, including those where enhanced hydrocarbon recovery operations occur;

"(2) an evaluation of the performance of relevant Federal environmental regulations and programs in ensuring environmentally protective geologic sequestration practices;

"(3) recommendations on how such programs and regulations should be improved or made more effective; and

"(4) other relevant information.".

(b) SAFE DRINKING WATER ACT STANDARDS.—Section 1421 of the Safe Drinking Water Act (42 U.S.C. 300h) is amended by inserting after subsection (d) the following:

"(e) CARBON DIOXIDE GEOLOGIC SEQUESTRATION WELLS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall promulgate regulations under subsection (a) for carbon dioxide geologic sequestration wells.

"(2) FINANCIAL RESPONSIBILITY.—The regulations referred to in paragraph (1) shall include requirements for maintaining evidence of financial responsibility, including financial responsibility for emergency and remedial response, well plugging, site closure, and post-injection site care. Financial responsibility may be established for carbon dioxide geologic sequestration wells in accordance with regulations promulgated by the Administrator by any one, or any combination, of the following: insurance, guarantee, trust, standby trust, surety bond, letter of credit, qualification as a self-insurer, or any other method satisfactory to the Administrator.".

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(a) STUDY OF LEGAL FRAMEWORK FOR GEOLOGIC SEQUESTRATION SITES.—

(1) ESTABLISHMENT OF TASK FORCE.—As soon as practicable, but not later than 6 months after the date of enactment of this Act, the Administrator shall establish a task force to be composed of an equal number of subject matter experts, nongovernmental organizations with expertise in environmental policy, academic experts with expertise in environmental law, State officials with environmental expertise, representatives of State Attorneys General, and members of the private sector, to conduct a study of—

(A) existing Federal environmental statutes, State environmental statutes, and State common law that apply to geologic sequestration sites for carbon dioxide,

including the ability of such laws to serve as risk management tools;

(B) the existing statutory framework, including Federal and State laws, that apply to environmental harm and damage at closed sites where carbon dioxide injection has been used for enhanced hydrocarbon recovery;

(C) the statutory framework, environmental and safety considerations, implementation issues, and financial implications of potential models for Federal, State, or private sector assumption of liabilities and financial responsibilities with respect to closed geologic sequestration sites;

(D) private sector mechanisms, including insurance and bonding, that may be available to manage environmental risk from closed geologic sequestration sites; and

(E) the subsurface mineral rights, water rights, or property rights issues associated with geological sequestration of carbon dioxide.

(2) REPORT.—Not later than 18 months after the date of enactment of this Act, the task force established under paragraph (1) shall submit to Congress a report describing the results of the study conducted under that paragraph including any consensus recommendations of the task force.

(b) CARBON DIOXIDE TRANSPORTATION.—

(1) STUDY OF PIPELINES.—The Secretary of Energy (referred to in this section as the "Secretary"), in coordination with the Federal Energy Regulatory Commission, the Administrator of the Environmental Protection Agency, and such other relevant Federal agencies as the President may designate, shall conduct a study to assess the need for and barriers to the construction and operation of pipelines to be

used for the transportation of carbon dioxide for the purpose of sequestration or enhanced hydrocarbon recovery.

(2) SCOPE OF STUDY.—In conducting the study under this subsection, the Secretary shall consider each of the following:

(A) Any barrier or potential barrier in existence as of the date of enactment of this Act, including any technical, siting, financing, or regulatory barrier, relating to the construction and operation of pipelines to be used for the transportation of carbon dioxide for the purpose of sequestration or enhanced hydrocarbon recovery.

(B) Any market risk (including throughput risk) relating to the construction and operation of pipelines to be used for the transportation of carbon dioxide for the purpose of sequestration or enhanced hydrocarbon recovery.

(C) Any regulatory, financing, or siting option that, as determined by the Secretary, would mitigate any market risk described in subparagraph (B) or help ensure the construction of pipelines dedicated to the transportation of carbon dioxide for the purpose of sequestration or enhanced hydrocarbon recovery.

(D) The means by which to ensure the safe transportation of carbon dioxide.

(E) Any preventive measure to ensure the integrity of pipelines to be used for the transportation of carbon dioxide for the purpose of sequestration or enhanced hydrocarbon recovery.

(F) Any other appropriate issue, as determined by the Secretary.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural

Resources of the Senate a report describing the results of the study.

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

(1) SECRETARY.—The term "Secretary " means the Secretary of Energy.

(2) DISTRIBUTION UTILITY.—The term "distribution utility" means an entity that distributes electricity directly to retail consumers under a legal, regulatory, or contractual obligation to do so.

(3) ELECTRIC UTILITY.—The term "electric utility" has the meaning provided by section 3(22) of the Federal Power Act (16 U.S.C. 796(22)).

(4) FOSSIL FUEL-BASED ELECTRICITY.—The term "fossil fuel-based electricity" means electricity that is produced from the combustion of fossil fuels.

(5) FOSSIL FUEL.—The term "fossil fuel" means coal, petroleum, natural gas or any derivative of coal, petroleum, or natural gas.

(6) CORPORATION.—The term "Corporation" means the Carbon Storage Research Corporation established in accordance with this section.

(7) QUALIFIED INDUSTRY ORGANIZATION.—The term "qualified industry organization" means the Edison Electric Institute, the American Public Power Association, the National Rural Electric Cooperative Association, a successor organization of such organizations or a group of owners or operators of distribution utilities delivering fossil fuel-based electricity who collectively represent at least 20 percent of the

volume of fossil fuel-based electricity delivered by distribution utilities to consumers in the United States.

(8) RETAIL CONSUMER.—The term "retail consumer" means an end-user of electricity.

(b) CARBON STORAGE RESEARCH CORPORATION.—

(1) ESTABLISHMENT.—

(A) REFERENDUM.—Qualified industry organizations may conduct, at their own expense, a referendum among the owners or operators of distribution utilities delivering fossil fuel-based electricity for the creation of a Carbon Storage Research Corporation. Such referendum shall be conducted by an independent auditing firm agreed to by the qualified industry organizations. Voting rights in such referendum shall be based on the quantity of fossil fuel-based electricity delivered to consumers in the previous calendar year or other representative period as determined by the Secretary pursuant to subsection (f). Upon approval of those persons representing two-thirds of the total quantity of fossil fuel-based electricity delivered to retail consumers, the Corporation shall be established unless opposed by the State regulatory authorities pursuant to subparagraph (B). All distribution utilities voting in the referendum shall certify to the independent auditing firm the quantity of fossil fuel-based electricity represented by their vote.

(B) STATE REGULATORY AUTHORITIES.—Upon its own motion or the petition of a qualified industry organization, each State regulatory authority shall consider its support or opposition to the creation of the Corporation under subparagraph (A). State regulatory authorities may notify the independent auditing firm referred to in subparagraph (A) of their views on the creation of the Corporation within 180 days after the enactment of this Act. If 40 percent or more of the State

regulatory authorities submit to the independent auditing firm written notices of opposition, the Corporation shall not be established notwithstanding the approval of the qualified industry organizations as provided in subparagraph (A).

(2) TERMINATION.—The Corporation shall be authorized to collect assessments and conduct operations pursuant to this section for a 10-year period from the date 6 months after the date of enactment of this Act. After such 10-year period, the Corporation is no longer authorized to collect assessments and shall be dissolved on the date 15 years after such date of enactment, unless the period is extended by an Act of Congress.

(3) GOVERNANCE.—The Corporation shall operate as a division or affiliate of the Electric Power Research Institute (referred to in this section as "EPRI") and be managed by a Board of not more than 15 voting members responsible for its operations, including compliance with this section. EPRI, in consultation with the Edison Electric Institute, the American Public Power Association and the National Rural Electric Cooperative Association shall appoint the Board members under clauses (i), (ii), and (iii) of subparagraph (A) from among candidates recommended by those organizations. At least a majority of the Board members appointed by EPRI shall be representatives of distribution utilities subject to assessments under subsection (d).

(A) MEMBERS.—The Board shall include at least one representative of each of the following:

(i) Investor-owned utilities.

(ii) Utilities owned by a State agency or a municipality.

(iii) Rural electric cooperatives.

(iv) Fossil fuel producers.

(v) Non-profit environmental organizations.

(vi) Independent generators or wholesale power providers.

(vii) Consumer groups.

(B) NONVOTING MEMBERS.—The Board shall also include as additional non-voting Members the Secretary of Energy or his designee and 2 representatives of State regulatory authorities as defined in section 3(17) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602, 3(17)), each designated by the National Association of State Regulatory Utility Commissioners from States that are not within the same transmission interconnection.

(4) COMPENSATION.—Corporation Board members shall receive no compensation for their services, nor shall Corporation Board members be reimbursed for expenses relating to their service.

(5) TERMS.—Corporation Board members shall serve terms of 4 years and may serve not more than 2 full consecutive terms. Members filling unexpired terms may serve not more than a total of 8 consecutive years. Former members of the Corporation Board may be reappointed to the Corporation Board if they have not been members for a period of 2 years. Initial appointments to the Corporation Board shall be for terms of 1, 2, 3, and 4 years, staggered to provide for the selection of 3 members each year.

(6) STATUS OF CORPORATION.—The Corporation shall not be considered to be an agency, department, or instrumentality of the United States, and no officer or director or employee of the Corporation shall be considered to be an officer or employee of the United States Government, for purposes of title 5 or title 31 of the United States Code, or for any other purpose, and no funds of the Corporation shall be treated as public money for purposes of chapter 33 of title 31, United States Code, or for any other purpose.

(c) FUNCTIONS AND ADMINISTRATION OF THE CORPORATION.—

(1) IN GENERAL.—The Corporation shall establish and administer a program to accelerate the commercial availability of carbon dioxide capture and storage technologies and methods, including technologies which capture and store, or capture and convert, carbon dioxide. Under such program competitively awarded grants, contracts, and financial assistance shall be provided and entered into with eligible entities. Except as provided in paragraph (7), the Corporation shall use all funds derived from assessments under subsection (d) to issue grants and contracts to eligible entities.

(2) PURPOSE.—The purposes of the grants, contracts, and assistance under this subsection shall be to support commercial-scale demonstrations of carbon capture or storage technology projects capable of advancing the technologies to commercial readiness. Such projects should encompass a range of different coal and other fossil fuel varieties, be geographically diverse, involve diverse storage media, and employ capture or storage, or capture and conversion, technologies potentially suitable either for new or for retrofit applications.

(3) ELIGIBLE ENTITIES.—Entities eligible for grants, contracts or assistance under this subsection may include distribution utilities, electric utilities and other private entities, academic institutions, national laboratories, Federal research agencies, State research agencies, non-profit organizations, or consortiums of 2 or more entities. Pilot-scale and similar small-scale projects are not eligible for support by the Corporation.

(4) ADMINISTRATION.—The members of the Board of Directors of the Corporation shall elect a Chairman and other officers as necessary, may establish committees and subcommittees of the Corporation, and shall adopt rules and bylaws for the conduct of business and the implementation of this section. The Board shall appoint an Executive Director and professional support staff who may be employees of the

Electric Power Research Institute (EPRI). After consultation with the Technical Advisory Committee established under subsection (i), the Secretary, and the Director of the National Energy Technology Laboratory to obtain advice and recommendations on plans, programs, and project selection criteria, the Board shall establish priorities for grants, contracts, and assistance; publish requests for proposals for grants, contracts and assistance; award grants, contracts and assistance competitively, on the basis of merit, after the establishment of procedures that provide for scientific peer review by the Technical Advisory Committee. The Board shall give preference to applications that reflect the best overall value and prospect for achieving the purposes of the Act, such as those which demonstrate an integrated approach for capture and storage or capture and conversion technologies. The Board members shall not participate in making grants or awards to entities with whom they are affiliated.

(5) USES OF GRANTS, CONTRACTS, AND ASSISTANCE.—A grant, contract, or other assistance provided under this subsection may be used to purchase carbon dioxide when needed to conduct tests of carbon dioxide storage sites, in the case of established projects that are storing carbon dioxide emissions, or for other purposes consistent with the purposes of this section. The Corporation shall make publicly available at no cost information learned as a result of projects which it supports financially.

(6) INTELLECTUAL PROPERTY.—The Board shall establish policies regarding the ownership of intellectual property developed as a result of Corporation grants and other forms of technology support. Such policies shall encourage individual ingenuity and invention.

(7) ADMINISTRATIVE EXPENSES.—Up to 5 percent of the funds collected in any fiscal year under subsection (d) may be used for the administrative expenses of operating the Corporation (not including costs incurred in the determination and collection of the assessments pursuant to subsection (d)).

(8) PROGRAMS AND BUDGET.—Before August 1 each year, the Corporation, after consulting with the Technical Advisory Committee and the Secretary and the Director of the Department's National Energy Technology Laboratory and other interested parties to obtain advice and recommendations, shall publish for public review and comment its proposed plans, programs, project selection criteria, and projects to be funded by the Corporation for the next calendar year. The Corporation shall also publish for public review and comment a budget plan for the next calendar year, including the probable costs of all programs, projects, and contracts and a recommended rate of assessment sufficient to cover such costs. The Secretary may recommend program and activities the Secretary considers appropriate.

(9) RECORDS; AUDITS.—The Corporation shall keep minutes, books, and records that clearly reflect all of the acts and transactions of the Corporation and make public such information. The books of the Corporation shall be audited by a certified public accountant at least once each fiscal year and at such other times as the Corporation may designate. Copies of each audit shall be provided to the Congress, all Corporation board members, all qualified industry organizations, each State regulatory authority and, upon request, to other members of the industry. If the audit determines that the Corporation's practices fail to meet generally accepted accounting principles the assessment collection authority of the Corporation under subsection (d) shall be suspended until a certified public accountant renders a subsequent opinion that the failure has been corrected.

(10) PUBLIC ACCESS.—The Corporation Board's meetings shall be open to the public and shall occur after at least 30 days advance public notice. Meetings of the Board of Directors may be closed to the public where the agenda of such meetings includes only confidential matters pertaining to project selection, the award of grants or contracts, personnel matter, or the receipt of legal advice. The minutes of all meetings of the Corporation shall be made available to and readily accessible by the public.

(11) ANNUAL REPORT.—Each year the Corporation shall prepare and make publicly available a report which includes an identification and description of all programs and projects undertaken by the Corporation during the previous year. The report shall also detail the allocation or planned allocation of Corporation resources for each such program and project. The Corporation shall provide its annual report to the Congress, the Secretary, each State regulatory authority, and upon request to the public.

(d) ASSESSMENTS.—

(1) AMOUNT.—(A) In all calendar years following its establishment, the Corporation shall collect an assessment on distribution utilities for all fossil fuel-based electricity delivered directly to retail consumers (as determined under subsection (f)). The assessments shall reflect the relative carbon dioxide emission rates of different fossil fuel-based electricity, and initially shall be not less than the following amounts for coal, natural gas, and oil:

Fuel type	Rate of assessment per kilowatt hour
Coal	$0.00043
Natural Gas	$0.00022
Oil	$0.00032.

(B) The Corporation is authorized to adjust the assessments on fossil fuel-based electricity to reflect changes in the expected quantities of such electricity from different fuel types, such that the assessments generate not less than $1.0 billion and not more than $1.1 billion annually. The Corporation is authorized to supplement assessments through additional financial commitments.

(2) INVESTMENT OF FUNDS.—Pending disbursement pursuant to a program, plan, or project, the Corporation may invest funds collected through assessments under this subsection, and any other funds received by the Corporation, only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision

thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

(3) REVERSION OF UNUSED FUNDS.—If the Corporation does not disburse, dedicate or assign 75 percent or more of the available proceeds of the assessed fees in any calendar year 7 or more years following its establishment, due to an absence of qualified projects or similar circumstances, it shall reimburse the remaining undedicated or unassigned balance of such fees, less administrative and other expenses authorized by this section, to the distribution utilities upon which such fees were assessed, in proportion to their collected assessments.

(e) ERCOT.—

(1) ASSESSMENT, COLLECTION, AND REMITTANCE.—(A) Notwithstanding any other provision of this section, within ERCOT, the assessment provided for in subsection (d) shall be—

(i) levied directly on qualified scheduling entities, or their successor entities;

(ii) charged consistent with other charges imposed on qualified scheduling entities as a fee on energy used by the load-serving entities; and

(iii) collected and remitted by ERCOT to the Corporation in the amounts and in the same manner as set forth in subsection (d).

(B) The assessment amounts referred to in subparagraph (A) shall be—

(i) determined by the amount and types of fossil fuel-based electricity delivered directly to all retail customers in the prior calendar year beginning with the year ending immediately prior to the period described in subsection (b)(1); and

(ii) take into account the number of renewable energy credits retired by the load-serving entities represented by a qualified scheduling entity within the prior calendar year.

(2) ADMINISTRATION EXPENSES.—Up to 1 percent of the funds collected in any fiscal year by ERCOT under the provisions of this subsection may be used for the administrative expenses incurred in the determination, collection and remittance of the assessments to the Corporation.

(3) AUDIT.—ERCOT shall provide a copy of its annual audit pertaining to the administration of the provisions of this subsection to the Corporation.

(4) DEFINITIONS.—For the purposes of this subsection:

(A) The term "ERCOT" means the Electric Reliability Council of Texas.

(B) The term "load-serving entities" has the meaning adopted by ERCOT Protocols and in effect on the date of enactment of this Act.

(C) The term "qualified scheduling entities" has the meaning adopted by ERCOT Protocols and in effect on the date of enactment of this Act.

(D) The term "renewable energy credit" has the meaning as promulgated and adopted by the Public Utility Commission of Texas pursuant to section 39.904(b) of the Public Utility Regulatory Act of 1999, and in effect on the date of enactment of this Act.

(f) DETERMINATION OF FOSSIL FUEL-BASED ELECTRICITY DELIVERIES.—

(1) FINDINGS.—The Congress finds that:

(A) The assessments under subsection (d) are to be collected based on the amount of fossil fuel-based electricity delivered by each distribution utility.

(B) Since many distribution utilities purchase all or part of their retail consumer's electricity needs from other entities, it may not be practical to determine the precise fuel mix for the power sold by each individual distribution utility.

(C) It may be necessary to use average data, often on a regional basis with reference to Regional Transmission Organization ("RTO") or NERC regions, to make the determinations necessary for making assessments.

(2) DOE PROPOSED RULE.—The Secretary, acting in close consultation with the Energy Information Administration, shall issue for notice and comment a proposed rule to determine the level of fossil fuel electricity delivered to retail customers by each distribution utility in the United States during the most recent calendar year or other period determined to be most appropriate. Such proposed rule shall balance the need to be efficient, reasonably precise and timely, taking into account the nature and cost of data currently available and the nature of markets and regulation in effect in various regions of the country. Different methodologies may be applied in different regions if appropriate to obtain the best balance of such factors.

(3) FINAL RULE.—Within 6 months after the enactment of this Act, and after opportunity for comment, the Secretary shall issue a final rule under this subsection for determining the level and type of fossil fuel-based electricity delivered to retail customers by each distribution utility in the United States during the appropriate period. In issuing such rule, the Secretary may consider opportunities and costs to develop new data sources in the future and issue recommendations for the Energy Information Administration or other entities to collect such data. After notice and opportunity for comment the

Secretary may, by rule, subsequently update and modify the methodology for making such determinations.

(4) ANNUAL DETERMINATIONS.—Pursuant to the final rule issued under paragraph (3), the Secretary shall make annual determinations of the amounts and types for each such utility and publish such determinations in the Federal Register. Such determinations shall be used to conduct the referendum under subsection (b) and by the Corporation in applying any assessment under this subsection.

(5) REHEARING AND JUDICIAL REVIEW.—The owner or operator of any distribution utility that believes that the Secretary has misapplied the methodology in the final rule in determining the amount and types of fossil fuel electricity delivered by such distribution utility may seek rehearing of such determination within 30 days of publication of the determination in the Federal Register. The Secretary shall decide such rehearing petitions within 30 days. The Secretary's determinations following rehearing shall be final and subject to judicial review in the United States Court of Appeals for the District of Columbia.

(g) COMPLIANCE WITH CORPORATION ASSESSMENTS.—The Corporation may bring an action in the appropriate court of the United States to compel compliance with an assessment levied by the Corporation under this section. A successful action for compliance under this subsection may also require payment by the defendant of the costs incurred by the Corporation in bringing such action.

(h) MIDCOURSE REVIEW.—Not later than 5 years following establishment of the Corporation, the Comptroller General of the United States shall prepare an analysis, and report to Congress, assessing the Corporation's activities, including project selection and methods of disbursement of assessed fees, impacts on the prospects for commercialization of carbon capture and storage technologies, and adequacy of funding. The report shall also make such recommendations as may be appropriate in each of these areas. The Corporation shall reimburse the Government Accountability Office for the costs associated with performing this midcourse review.

(i) RECOVERY OF COSTS.—

(1) IN GENERAL.—A distribution utility whose transmission, delivery, or sales of electric energy are subject to any form of rate regulation shall not be denied the opportunity to recover the full amount of the prudently incurred costs associated with complying with this section, consistent with applicable State or Federal law.

(2) RATEPAYER REBATES.—Regulatory authorities that approve cost recovery pursuant to paragraph (1) may order rebates to ratepayers to the extent that distribution utilities are reimbursed undedicated or unassigned balances pursuant to subsection (d)(3).

(j) TECHNICAL ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—There is established an advisory committee, to be known as the "Technical Advisory Committee".

(2) MEMBERSHIP.—The Technical Advisory Committee shall be comprised of not less than 7 members appointed by the Board from among academic institutions, national laboratories, independent research institutions, and other qualified institutions. No member of the Committee shall be affiliated with EPRI or with any organization having members serving on the Board. At least one member of the Committee shall be appointed from among officers or employees of the Department of Energy recommended to the Board by the Secretary of Energy.

(3) CHAIRPERSON AND VICE CHAIRPERSON.—The Board shall designate one member of the Technical Advisory Committee to serve as Chairperson of the Committee and one to serve as Vice Chairperson of the Committee.

(4) COMPENSATION.—The Board shall provide compensation to members of the Technical Advisory Committee for travel and other incidental expenses and such other compensation as the Board determines to be necessary.

(5) PURPOSE.—The Technical Advisory Committee shall provide independent assessments and technical evaluations, as well as make non-binding recommendations to the Board, concerning Corporation activities, including but not limited to the following:

(A) Reviewing and evaluating the Corporation's plans and budgets described in subsection (c)(8), as well as any other appropriate areas, which could include approaches to prioritizing technologies, appropriateness of engineering techniques, monitoring and verification technologies for storage, geological site selection, cost control measures.

(B) Making annual non-binding recommendations to the Board concerning any of the matters referred to in subparagraph (A), as well as what types of investments, scientific research, or engineering practices would best further to the goals of the Corporation.

(6) PUBLIC AVAILABILITY.—All reports, evaluations, and other materials of the Technical Advisory Committee shall be made available to the public by the Board, without charge, at time of receipt by the Board.

(k) LOBBYING RESTRICTIONS.—No funds collected by the Corporation shall be used in any manner for influencing legislation or elections, except that the Corporation may recommend to the Secretary and the Congress changes in this section or other statutes that would further the purposes of this section.

(l) DAVIS-BACON COMPLIANCE.—The Corporation shall ensure that entities receiving grants, contracts, or other financial support from the Corporation for the project activities authorized by this section are in compliance with the Davis-Bacon Act (40 U.S.C. 276a–276a–5).

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(a) REGULATIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency (in this section referred to as the "Administrator") shall promulgate regulations establishing a program to distribute authorized funds, in accordance with the requirements of this section, to support the commercial deployment of carbon capture and sequestration technologies in both electric power generation and appropriate industrial operations.

(b) ELIGIBILITY CRITERIA.—To be eligible for funding under this section, a project must implement carbon capture and sequestration technology—

(1) at an electric generating unit that—

(A) has a nameplate capacity of 250 megawatts or more; and

(B) derives at least 50 percent of its annual fuel input from coal, petroleum coke, or any combination of these fuels; or

(2) at an industrial source that, absent carbon capture and sequestration technology, would emit over 250,000 tons per year of carbon dioxide equivalent.

(c) DISTRIBUTION OF FUNDS.—

(1) MULTIPLE TRANCHES.—The Administrator shall divide funds for distribution to eligible projects into a series of tranches, each supporting the deployment of a specified quantity of electric generating capacity (or such alternative metric as the Administrator may designate for industrial projects) utilizing carbon capture and sequestration technology.

(2) FORM OF FUNDING.—The Administrator shall distribute funds within each tranche, on a first-come, first-served basis, in the form of a payment per ton of carbon dioxide captured and sequestered by the project.

(3) SLIDING SCALE.—For each tranche established pursuant to paragraph (1), the Administrator shall establish a

payment schedule based on a sliding scale that provides higher payments per ton for projects achieving higher rates of capture and sequestration.

(4) DECLINING PAYMENTS BY TRANCHE.—For each successive tranche established pursuant to paragraph (1), the schedule established pursuant to paragraph (3) shall establish a lower payment per ton than was provided in the prior tranche.

(5) CRITERIA FOR ESTABLISHING PAYMENT SCHEDULES.—Payment levels under the program under this section shall be established so as to cover the reasonable incremental capital and operating costs of a project that are attributable to implementation of carbon capture and sequestration technologies, taking into account—

(A) the reduced cost of compliance with section 722 of the Clean Air Act (as added by section 311 of this Act);

(B) the capture technology and fuel type (including coal type) used by the project; and

(C) such other factors as the Administrator determines are appropriate.

(d) LIMITATIONS.—

(1) PAYMENT PERIOD.—An eligible project may receive funding under this subsection only for the first [x] years of operation.

(2) INDUSTRIAL PROJECTS.—(A) Industrial sources shall receive no more than 15 percent of available funds available under this section.

(B) An industrial source shall not be eligible to receive funding under this section if it produces a transportation fuel that contains more than 10 kilograms of fossil-based carbon per million British thermal units, higher heat value.

(3) TOTAL DEPLOYMENT.—Funding under this section may be used to support the deployment of no greater than [x] gigawatts of electric generating capacity with carbon capture and sequestration technology (reduced, based on such equivalent metric as the Administrator may designate, by the quantity of industrial source projects deployed under this section).

(e) AUTHORIZATION.—There are authorized to be appropriated to carry out the program under this section such sums as may be necessary.

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(a) IN GENERAL.—Title VIII of the Clean Air Act (as added by section 331 of this Act) is amended by adding the following new section after section 811:

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

"(1) COVERED EGU.—The term 'covered EGU' means a utility unit that—

"(A) has a permit issued under title V of this Act that permits it to derive at least 30 percent of its annual heat input from coal, petroleum coke, or any combination of these fuels; and

"(B) is finally permitted after January 1, 2009.

"(2) FINALLY PERMITTED.— For purposes of paragraph (1), the term 'finally permitted' by a specified date means that the owner or operator of the covered EGU has received all necessary preconstruction approvals or permits under this Act, for a new (not modified) utility unit, and any administrative review of such approvals or permits has been exhausted by that

date. A subsequent modification of any such approval or permits shall not affect the date on which a covered EGU is considered to be finally permitted under this paragraph.

"(b) STANDARDS.—(1) A covered EGU that is finally permitted after January 1, 2015, shall emit no more than 1,100 pounds of carbon dioxide per megawatt-hour.

"(2) A covered EGU that is finally permitted after January 1, 2020, shall emit no more than 800 pounds of carbon dioxide per megawatt-hour, or meet such more stringent standard as the Administrator may establish pursuant to subsection (c).

"(3) A covered EGU that is finally permitted after January 1, 2009, and before January 1, 2015, shall, by the applicable compliance date established under this paragraph, emit no more than 1,100 pounds of carbon dioxide per megawatt-hour. Compliance with the requirement set forth in this paragraph shall be required by the earliest of the following:

"(A) Four years after the date the Administrator issues a determination that there are in commercial operation in the United States electric generating units equipped with carbon capture and sequestration technology that, in the aggregate—

"(i) have a total of at least 2.5 gigawatts of nameplate generating capacity; and

"(ii) are capturing and sequestering in the aggregate at least 5 million tons of carbon dioxide per year, calculated on an aggregate annualized basis.

"(B) Four years after the date the Administrator issues a determination that there are in commercial operation worldwide electric generating units equipped with carbon capture and sequestration technology that, in the aggregate—

"(i) have a total of at least 5 gigawatts of nameplate generating capacity; and

"(ii) are capturing and sequestering in the aggregate at least 10 million tons of carbon dioxide per year,

calculated on an aggregate annualized basis, of which at least 2 million tons of carbon dioxide per year, calculated on an aggregate annualized basis, is being captured and sequestered in the United States; or

"(C) January 1, 2025.

"(c) REVIEW AND REVISION OF STANDARDS.—Not later than 2025 and at 5-year intervals thereafter, the Administrator shall review the standards for new covered EGUs under this section and shall, by rule, reduce the maximum carbon dioxide emission rate for new covered EGUs to a rate which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated.".

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Part B of title VIII of the Clean Air Act, as added by section 221 of this Act, is amended by adding after section 821 the following section:

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

"(1) IN GENERAL.—Except as otherwise provided in this section, all terms used in this section shall have the same meaning as when used in title II, including section 211(o).

"(2) FUEL EMISSION BASELINE.—The term 'fuel emission baseline' means the average lifecycle greenhouse gas emissions per unit of energy, as determined by the

Administrator, of all transportation fuels sold or introduced into commerce in any of the 50 States or the District of Columbia in calendar year 2005 .

"(3) RENEWABLE BIOMASS.—Notwithstanding paragraph (1), the term 'renewable biomass' shall have the meaning given to such term in title VII.

"(4) TRANSPORTATION FUEL.—The term 'transportation fuel' means fuel for use in motor vehicles, motor vehicle engines, nonroad vehicles, nonroad engines, and aircraft. The Administrator may, at his discretion, include fuel for use in ocean-going vessels and adjust the fuel emission baseline as appropriate to reflect the inclusion of such fuel.

"(5) TRANSPORTATION FUEL PROVIDER.—The term 'transportation fuel provider' includes any individual or entity that produces, refines, blends, or imports any transportation fuel.

"(b) REGULATIONS.—

"(1) STANDARD.—Not later than 3 years after enactment of this section, the Administrator shall promulgate regulations under section 211(c) and this section that—

"(A) determine the lifecycle greenhouse gas emissions of all transportation fuels;

"(B) determine the fuel emission baseline;

"(C) apply to refineries, blenders, and importers, as appropriate, and to such other transportation fuel providers as determined by the Administrator;

"(D) ensure that, for each year from 2014 through 2022, the annual average lifecycle greenhouse gas emissions, per unit of energy as determined by the Administrator, of transportation fuel, excluding renewable fuel used to meet the obligations of section 211(o), sold or introduced into commerce by such

transportation fuel providers in any of the 50 States or the District of Columbia, does not exceed the fuel emission baseline; and

"(E) ensure that, for 2023 and each year thereafter, such transportation fuel providers reduce the annual average lifecycle greenhouse gas emissions, per unit of energy as determined by the Administrator, for transportation fuel that is sold or introduced into commerce in any of the 50 States or the District of Columbia, to the maximum extent practicable, taking into consideration cost, energy, and other environmental factors, and that—

"(i) for calendar year 2023 and later, the annual average lifecycle greenhouse gas emission is at least 5 percent below the fuel emission baseline; and

"(ii) for calendar year 2030 and later, the annual average lifecycle greenhouse gas emission is at least 10 percent below the fuel emission baseline.

"(2) REVIEW.—The Administrator shall from time to time, but no less than every 5 years beginning in 2020, review and revise as appropriate the annual average lifecycle greenhouse gas emission requirements of the regulations issued under this subsection.

"(3) PROVISIONS.—The regulations issued under this subsection—

"(A) shall contain compliance provisions applicable to transportation fuel providers and other persons, as appropriate, to ensure that the requirements of this subsection are met;

"(B) shall not impose any per-gallon obligation regarding the amount of lifecycle greenhouse gas

emissions per unit of energy as determined by the Administrator; and

"(C) shall set the lifecycle greenhouse gas emissions of biofuels derived from biomass other than renewable biomass at a level no higher than the fuel emission baseline.

"(4) ELECTION TO PARTICIPATE.—

"(A) PARTICIPATION.—For any transportation fuel provider which the Administrator has not yet determined to be subject to the regulations under this subsection, and for any provider of a non-transportation fuel, the Administrator, at his discretion, may allow the fuel provider to elect to participate in the program under this subsection, subject to requirements established by the regulation.

"(B) REGULATORY PROVISIONS.—Regulations implementing this paragraph shall include—

"(i) provisions for tracking of the fuel used for transportation purposes separately from fuel used for other purposes; and

"(ii) any other provisions determined appropriate by the Administrator to carry out this paragraph.

"(c) CREDITS.—

"(1) IN GENERAL.—The regulations under subsection (b) shall permit transportation fuel providers to generate credits for achieving, during a calendar year, greater reductions for the fuel produced or imported by the fuel provider than are required by such regulations. The Administrator shall determine the appropriate amount of credits and appropriate conditions, if any, on the duration, trading, and use of credits. The Administrator shall, with appropriate conditions, allow the

use of credits or renewable identification numbers generated under section 211(o).

"(2) ELECTRICITY.—The Administrator may, at his discretion, issue regulations providing for—

"(A) the generation of credits for electricity used as a transportation fuel and generated by a source other than the vehicle; and

"(B) the assignment of those credits to the manufacturers or importers of such vehicles or to other persons as deemed appropriate by the Administrator.

"(3) COMPLIANCE.—Each transportation fuel provider subject to the regulations promulgated under this section shall demonstrate compliance, including, as necessary, through the use of credits generated, banked or purchased.

"(4) INABILITY TO GENERATE OR PURCHASE SUFFICIENT CREDITS.—A transportation fuel provider that is unable to generate or purchase sufficient credits to meet the requirements of the regulations under subsection (b) may carry the compliance deficit forward, subject to the condition that the fuel provider, for the calendar year following the year for which the deficit is created—

"(A) achieves compliance ; and

"(B) generates or purchases additional credits to offset the deficit from the preceding calendar year.

"(d) WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements of the regulations under subsection (b) in whole or in part on petition by one or more States, by any person subject to the requirements of this section, or by the Administrator on his own motion by revising the average lifecycle greenhouse gas emissions reduction required through regulations under subsection (b) based on a determination by the Administrator, after public notice and opportunity for comment, that—

"(1) implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

"(2) there is an inadequate domestic supply of fuels to meet the requirements of this section.

"(e) ENVIRONMENTAL AND RESOURCE CONSERVATION IMPACTS.—Not later than 2 years after the promulgation of regulations under subsection (b), the Administrator shall complete a study to determine the environmental and resource conservation impacts of the requirements of such regulations, including impacts on air and water quality.

"(f) ENERGY SECURITY AND LEAKAGE.—Not later than 18 months after the promulgation of regulations under subsection (b), the Administrator shall complete a study to determine the effect of the requirements of such regulations on energy security. The study shall also assess the potential shifting of fuel feedstocks and fuel products internationally as a result of such requirements and shall determine the environmental and energy security implications of such leakage.

"(g) TRANSITION.—Section 211(o) shall not apply to fuel sold or introduced into commerce after December 31, 2022. Notwithstanding the preceding sentence, the definitions in section 211(o) shall continue to apply except as otherwise noted. ".

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(a) AMENDMENT OF PURPA .—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(20) PLUG-IN HYBRID ELECTRIC VEHICLE AND ELECTRIC VEHICLE INFRASTRUCTURE.—

"(A) UTILITY PLAN FOR INFRASTRUCTURE.—Each electric utility shall develop a plan to support the use of plug-in hybrid electric vehicles and electric vehicles, including heavy-duty hybrid electric vehicles.

The plan may provide for deployment of electrical charging stations in public or private locations, including street parking, parking garages, parking lots, homes, gas stations, and highway rest stops. Any such plan may also include—

"(i) battery exchange, fast charging infrastructure and other services;

"(ii) triggers for infrastructure deployment based upon market penetration of plug-in hybrid electric vehicles and electric vehicles; and

"(iii) such other elements as the State determines necessary to support electric vehicles and plug-in hybrid electric vehicles.

Each plan under this paragraph shall provide for the deployment of the charging infrastructure or other infrastructure necessary to adequately support the use of plug-in hybrid electric vehicles and electric vehicles.

"(B) SUPPORT REQUIREMENTS.—Each State regulatory authority (in the case of each electric utility for which it has ratemaking authority) and each utility (in the case of a nonregulated utility) shall—

"(i) require that charging infrastructure deployed is interoperable with products of all auto manufacturers to the extent possible; and

"(ii) consider adopting minimum requirements for deployment of electrical charging infrastructure and other appropriate requirements necessary to support the use of plug-in hybrid electric vehicles and electric vehicles.

"(C) COST RECOVERY.—Each State regulatory authority (in the case of each electric utility for which it has ratemaking authority) and each utility (in the case of a nonregulated utility) shall consider whether, and to what extent, to allow cost recovery for plans and implementation of plans.

"(D) SMART GRID INTEGRATION.—The State regulatory authority (in the case of each electric utility for which it has ratemaking authority) and each utility (in the case of a nonregulated utility) shall—

"(i) establish any appropriate protocols and standards for integrating plug-in hybrid electric vehicles and electric vehicles into an electrical distribution system, including Smart Grid systems and devices;

"(ii) include the ability for each plug-in hybrid electric vehicle and electric vehicle to be identified individually and to be associated with its owner's electric utility account, regardless of the location that the vehicle is plugged in, for purposes of appropriate billing for any electricity required to charge the vehicle's batteries as well as any crediting for electricity provided to the electric utility from the vehicle's batteries; and

"(iii) review the determination made in response to section 1252 of the Energy Policy Act of 2005 in light of this section, including whether time-of-use pricing should be employed to enable the use of plug-in hybrid electric vehicles and electric vehicles to contribute to meeting peak-load power needs".

(b) COMPLIANCE.—

(1) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding the following at the end thereof:

"(7) (A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated utility shall commence the consideration referred to in section 111, or set a hearing date for consideration, with respect to the standard established by paragraph (20) of section 111(d).

"(B) Not later than 2 years after the date of the enactment of the this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to the standard established by paragraph (20) of section 111(d).".

(2) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding the following at the end:

" In the case of the standards established by paragraph (20) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph.".

(3) PRIOR STATE ACTIONS.—Section 112(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(d)) is amended by striking (19) and inserting "(20)" before "of section 111(d)".

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(a) DEPLOYMENT PROGRAM.—The Secretary of Energy shall establish a program to deploy and integrate plug-in electric drive vehicles in multiple

regions. In carrying out the program, the Secretary may provide financial assistance described under subsection (d), consistent with the goals under subsection (b). The Secretary shall select regions based upon applications for assistance received pursuant to subsection (c).

(b) GOALS.—The goals of the program established pursuant to subsection (a) shall be—

(1) to demonstrate the viability of a vehicle-based transportation system that is not overly dependent on petroleum as a fuel and contributes to lower carbon emissions than a system based on conventional vehicles;

(2) to facilitate the integration of advanced vehicle technologies into electricity distribution areas to improve system performance and reliability;

(3) to demonstrate the potential benefits of coordinated investments in vehicle electrification on personal mobility and a regional grid;

(4) to demonstrate protocols and standards that facilitate vehicle integration into the grid; and

(5) to investigate differences in each region and regulatory environment regarding best practices in implementing vehicle electrification.

(c) APPLICATIONS.—Any State or local government (or group of State or local governments) may apply to the Secretary of Energy for financial assistance in furthering the regional deployment of plug-in electric drive vehicles. Such applications may be jointly sponsored by electric utilities, automobile manufacturers, technology providers, car sharing companies or organizations, or other persons or entities.

(d) USE OF FUNDS.—Pursuant to applications received under subsection (c), the Secretary may make financial assistance available to any applicant or joint sponsor of the application to be used for any of the following:

(1) Assisting persons located in the regional deployment area, including fleet owners, in the purchase of new plug-in electric drive vehicles by offsetting in whole or in part the incremental cost of such vehicles above the cost of comparable conventionally fueled vehicles.

(2) Supporting the use of plug-in electric drive vehicles by funding projects for the deployment of any of the following:

(A) Electrical charging stations for plug-in electric drive vehicles, including battery exchange, fast charging infrastructure, and other services, in public or private locations, including street parking, parking garages, parking lots, homes, gas stations, and highway rest stops.

(B) Smart Grid equipment and infrastructure to facilitate the charging and integration of plug-in electric drive vehicles.

(3) Such other projects as the Secretary determines appropriate to support the large-scale deployment of plug-in electric drive vehicles in regional deployment areas.

(e) PROGRAM REQUIREMENTS.—The Secretary shall determine design elements and requirements of the program established pursuant to subsection (a), including—

(1) the type of financial mechanism with which to provide financial assistance;

(2) criteria for evaluating applications submitted under subsection (c), including the anticipated ability to promote deployment and market penetration of vehicles that are less dependent on petroleum as fuel source; and

(3) reporting requirements for entities that receive financial assistance under this section, including a comprehensive set of performance data characterizing the results of the deployment program.

(f) INFORMATION CLEARINGHOUSE.—The Secretary shall, as part of the program established pursuant to subsection (a), collect and make available to the public information regarding the cost, performance, and other technical data regarding the deployment and integration of plug-in electric drive vehicles.

(g) AUTHORIZATION.—There are authorized to be appropriated to carry out this section such sums as may be necessary.

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(a) VEHICLE MANUFACTURING ASSISTANCE PROGRAM.—The Secretary of Energy shall establish a program to provide financial assistance to automobile manufacturers to facilitate the manufacture of plug-in electric drive vehicles, as defined in section 131(a)(5) of the Energy Independence and Security Act of 2007, that are developed and produced in the United States.

(b) FINANCIAL ASSISTANCE.—The Secretary of Energy may provide financial assistance to an automobile manufacturer under the program established pursuant to subsection (a) for—

(1) the reconstruction or retooling of facilities for the manufacture of plug-in electric drive vehicles that are developed and produced in the United States; and

(2) if appropriate, the purchase of domestically produced vehicle batteries to be used in the manufacture of vehicles manufactured pursuant to paragraph (1).

(c) REQUIREMENTS.—The Secretary may provide financial assistance under subsection (b) to an automobile manufacturer if—

(1) in the case of a reconstruction or retooling described under subsection (b)(1), without financial assistance the automobile manufacturer is not able to reasonably finance the reconstruction or retooling of a facility; or

(2) in the case of battery purchases described under subsection (b)(2), without financial assistance, the automobile manufacturer is not able reasonably finance the purchase of such batteries.

(d) COORDINATION WITH REGIONAL DEPLOYMENT.—The Secretary may provide financial assistance under subsection (b) in conjunction with the award of financial assistance under the large scale vehicle electrification program established pursuant to section 123 of this Act.

(e) PROGRAM REQUIREMENTS.—The Secretary shall determine design elements and requirements of the program established pursuant to subsection (a), including—

(1) the type of financial mechanism with which to provide financial assistance;

(2) criteria, in addition to the criteria described under subsection (f), for evaluating applications for financial assistance; and

(3) reporting requirements for automobile manufacturers that receive financial assistance under this section.

(f) CRITERIA.—In selecting recipients of financial assistance from among applicant automobile manufacturers, the Secretary shall give preference to proposals that—

(1) are most likely to be successful; and

(2) are located in local markets that have the greatest need for the facility.

(g) REPORTS.—The Secretary shall annually submit to Congress a report on the program established pursuant to this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

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(a) DEFINITIONS.—In this section:

(1) SEED FUND.—The term "SEED Fund" means a State Energy and Environment Development Fund established pursuant to this section.

(2) STATE ENERGY OFFICE.—The term "State Energy Office" means the State entities eligible for grants under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.)

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish a program under which a State, through its State Energy Office, may create a State Energy and Environment Development Fund.

(c) PURPOSE.—The purpose of each SEED Fund is to serve as a common State-level fund, including a revolving fund, for managing and accounting for Federal financial assistance to States designated primarily for clean energy, energy efficiency, and climate change purposes.

(d) GUIDANCE.—The Secretary of Energy shall develop model regulations for the operation of a SEED Fund by a State under this section. The Secretary of Energy and the Administrator shall provide consultation and assistance to States for the establishment and operation of SEED Funds under this section.

(e) OPERATION.—

(1) DEPOSITS.—

(A) IN GENERAL.—A State may deposit into its SEED Fund amounts received from Federal appropriations primarily for clean energy, energy

efficiency, or climate change purposes, including appropriations for—

(i) the Weatherization Assistance Program under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.);

(ii) the Low-Income Home Energy Assistance Program under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.);

(iii) grants under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.);

(iv) State portions of Energy Efficiency and Conservation Block Grants under subtitle E of title V of the Energy Independence and Security Act of 2007 (42 U.S.C. 17151 et seq.); and

(v) the American Recovery and Reinvestment Act of 2009.

(B) PENDING EXPENDITURE.—Any amounts provided to a State from Federal appropriations for a clean energy, energy efficiency, or climate change purpose shall be deemed to be serving that purpose for any period those amounts are held in a SEED Fund pending expenditure.

(C) FUNDING AUTHORIZED UNDER THIS SECTION.—A State shall deposit into its SEED Fund any amounts transmitted to the State that were appropriated pursuant to this section.

(D) LOAN REPAYMENTS.—Repayments of the principal or interest from a SEED Fund loan provided pursuant to paragraph (2)(C)(i) shall be returned to that SEED Fund to allow for further SEED Fund activities by the State.

(2) EXPENDITURES.—

(A) IN GENERAL.—All expenditures from SEED Funds shall support clean energy, energy efficiency, or climate change programs authorized or approved by the Federal Government, or serve specific purposes as provided under the Federal law authorizing or appropriating the funds expended.

(B) DEDICATED FUNDING.—Amounts deposited in a SEED Fund for which the authorizing or appropriating legislation required specific uses for a specified period shall be expended according to those requirements during that period.

(C) UNDEDICATED FUNDING.—To the extent that amounts deposited in a SEED Fund are not required for specific uses for a specified period as described in subparagraph (B), such amounts may be expended for any of the following purposes:

(i) LOANS.—Loans may be provided, interest on commercial loans may be subsidized at or to an interest rate as low as zero, and other credit support may be provided, at the discretion of the State, to support programs authorized to use SEED Fund amounts or any other clean energy, energy efficiency, or climate change purpose authorized or approved by the Federal Government.

(ii) GRANTS.—Grants may be provided to support programs authorized to use SEED Fund amounts or any other clean energy, energy efficiency, or climate change purpose authorized or approved by the Federal Government.

(iii) OTHER FORMS OF SUPPORT.—Amounts may be provided for other forms of support for programs authorized to use SEED Fund amounts or any other clean energy, energy efficiency, or

climate change purpose authorized or approved by the Federal Government.

(iv) ADMINISTRATIVE COSTS.—Except to the extent provided in Federal law authorizing or appropriating funds deposited in a SEED Fund, not more than 5 percent of the amounts in a SEED Fund in any year may be used to cover administrative expenses of the SEED Fund.

(D) SUB-FUNDS.—A State may create and maintain sub-funds for local governments that request such sub-funds to hold amounts transmitted to local governments for clean energy, energy efficiency, or climate change programs authorized or approved by the Federal Government.

(3) ACCOUNTABILITY AND TRANSPARENCY.—

(A) RECORDKEEPING.—Any State that has established a SEED Fund shall maintain records of all activities relating to the deposits and expenditures of the SEED Fund, and shall retain such records for a period of at least 5 years.

(B) CONTROLS.—Any State that has established a SEED Fund shall establish fiscal controls and accounting procedures for the SEED Fund sufficient to ensure proper accounting during appropriate accounting periods for deposits into the SEED Fund, expenditures from the SEED Fund, and SEED Fund balances. Such controls and procedures shall conform to generally accepted government accounting principles.

(C) AUDITS.—Any State that has established a SEED Fund shall have an annual audit conducted of the SEED Fund by an independent public accountant in accordance with generally accepted auditing standards.

(D) PUBLIC INFORMATION.—Any—

(i) controls and procedures established under subparagraph (B); and

(ii) information obtained through audits conducted under subparagraph (C), except to the extent that it would be protected from disclosure, if it were information held by the Federal Government, under section 552(b) of title 5, United States Code,

shall be made publicly available.

(E) OTHER PROTECTIONS.—The Secretary shall require such additional procedures and protections as are necessary to ensure that any State that has established a SEED Fund will operate the SEED Fund in an accountable and transparent manner.

(f) FUNDING TO STATES.—Federal financial assistance provided to States pursuant to this Act that is designated primarily for clean energy, energy efficiency, and climate change purposes shall be deposited by the States in their SEED Fund. A State's eligibility to receive funding in its SEED Fund shall depend on that State's compliance with the requirements of this Act.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such additional sums as may be necessary to carry out this section. Amounts appropriated pursuant to this section shall be allocated among the States in accordance with the State Energy Program formula under section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6323).

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For purposes of this subtitle, the terms:

(1) "Secretary" means the Secretary of Energy.

(2) "Administrator" means the Administrator of the Environmental Protection Agency.

(3) "Commission" means Federal Energy Regulatory Commission.

(4) "Smart Grid" has the meaning provided by section 1301 of the Energy Independence and Security Act of 2007 (15 U.S.C. 17381).

(5) "Peak demand reduction" means the reduction in annual peak demand as compared to a previous baseline year or period, expressed in Megawatts (MW).

(6) "Peak demand" shall mean the highest point of electricity demand during any hour on the system of a load-serving entity during an annual calendar year, expressed in megawatts, or more than one such high point of electricity demand as a function of seasonal demand changes.

(7) "Peak period" shall mean the time period on the system of a load-serving entity relative to peak demand that may warrant special measures or electricity resources to maintain system reliability while meeting peak demand.

(8) "load-serving entity" means an entity that provides electricity directly to retail consumers with the responsibility to assure power quality and reliability, including such entities that are investor-owned, publicly owned, owned by rural electric cooperatives, or other entities.

(9) "Applicable baseline" shall mean the average of the highest three annual peak demands a load-serving entity has experienced during the 5 years immediately prior to the date of enactment of this Act.

(10) "Peak load reduction plan" means a plan developed by or for a load-serving entity that it will implement to meet its peak demand management goals.

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(a) ASSESSMENT.—Within one year after the date of enactment of this Act, the Secretary and the Administrator shall each assess the potential for cost-effective integration of Smart Grid technologies and capabilities in all products that are reviewed by the Department of Energy and the Environmental Protection Agency, respectively, for potential designation as Energy Star products.

(b) ANALYSIS.—(1) Within 2 years after the date of enactment of this Act, the Secretary and the Administrator shall each prepare an analysis of the potential energy savings, and electricity cost savings that could accrue for each of the products referred to in subsection (a) in the following optimal circumstances:

(A) The products possessed full Smart Grid capability.

(B) The products were utilized in an electricity utility service area which had Smart Grid capability and time-of-use electric rates.

(C) The time-of-use rates reflected national average utility rates including average peak and valley daily electricity costs to the utility.

(D) Consumers using such products took full advantage of such capability.

(2) The analysis under paragraph (1) shall be considered the "best case" Smart Grid analysis. On the basis of such an analysis for each product, the Secretary and the Administrator shall determine whether the installation of Smart Grid capability for such a product would be cost effective. For purposes of this paragraph, the term "cost effective" means that the cumulative savings from using the product under the best case Smart Grid

circumstances for a period of 5 years will be greater than the incremental cost of the Smart Grid features included in the product.

(3) To the extent that including Smart Grid capability in any products analyzed under paragraph (2) yielded a finding that doing so was cost effective in the best case, the Secretary and the Administrator shall, not later than 3 years after the date of enactment of this Act take each of the following actions:

(A) Inform the manufacturer of such product of such finding.

(B) Make special note in a prominent manner on any Energy Star label for any product actually including Smart Grid capability that—

(i) Smart Grid capability is a feature of that product;

(ii) the use and value of those features depended on the Smart Grid capability of the utility system in which the product was installed and the use of those features by the customer; and

(iii) on a utility system with Smart Grid capability, the use of the product's Smart Grid capability could potentially reduce the cost of the product's annual operation by an estimated dollar amount representing the result of incremental energy and electricity cost savings that would result from the Smart Grid best case for that product.

(C) Submit a report to Congress summarizing the results of the analyses for each class of products, and presenting the potential national energy and electricity cost savings that could be realized if cost-effective Smart Grid capability were installed in the relevant products reviewed by the Energy Star program.

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(a) GOALS.—Not later than one year after the date of enactment of this Act, load-serving entities, or States, shall determine and publish peak demand reduction goals for any load-serving entities that have an applicable baseline in excess of 250 megawatts

(b) BASELINES.—(1) The Commission, in consultation with the Secretary, shall develop and publish, after an opportunity for public comment, a methodology to provide for adjustments or normalization to a load-serving entity's applicable baseline over time to reflect changes in the number of customers served, weather conditions, general economic conditions, and any other appropriate factors external to peak load management, as determined by the Commission.

(2) The Commission shall support load-serving entities in determining their applicable baselines, and in developing their peak demand reduction goals, including any load-serving entity with an applicable baseline of less than 250 megawatts that volunteers to participate in achieving the purposes of this Act.

(3) The Secretary, in consultation with the Commission and the National Electric Reliability Corporation, shall develop a system and rules for measurement and verification of demand reductions.

(c) PEAK DEMAND REDUCTION GOALS.—(1) Peak demand reduction goals may be established for an individual load-serving entity, or, at the determination of a State or regional entity, by that State or regional entity for a larger region that shares a common system peak demand and for which peak demand reduction measures would offer regional benefit.

(2) A State or regional entity establishing peak demand reduction goals shall cooperate, as necessary and appropriate, with the Commission, the Secretary, State regulatory commissions, State energy offices, the National Electric Reliability Corporation, and other relevant authorities.

(3) In determining the applicable peak demand reduction goals, States and other jurisdictional entities may utilize the results of the 2009 National Demand Response Potential Assessment, as authorized by section 529 of the Energy Independence and Security Act of 2007.

(4) The applicable peak demand reduction goals shall provide that—

(A) load-serving entities will reduce or mitigate peak demand by a minimum percentage amount from the applicable baseline to a lower peak demand during calendar year 2012;

(B) load-serving entities will reduce or mitigate peak demand by a minimum percentage greater amount from the applicable baseline to a lower peak demand during calendar year 2015; and

(C) the minimum percentage reductions selected are the percentage reductions that are realistically achievable with an aggressive effort to deploy Smart Grid and peak demand reduction technologies and methods, including but not limited to those listed in subsection (d).

(d) PLAN.—Each load-serving entity shall prepare a peak load reduction plan that demonstrates its ability to meet each applicable goal by any or a combination of the following options:

(1) Direct reduction in megawatts of peak demand through energy efficiency measures with reliable and continued application during peak demand periods.

(2) Demonstration that an amount of megawatts equal to a stated portion of the applicable goal is contractually committed to be available for peak reduction through one or more of the following:

(A) Megawatts enrolled in demand response programs.

(B) Megawatts subject to the ability of a load-serving entity to call on demand response programs, smart appliances, smart electricity storage devices, distributed generation resources on the entity's customers' premises, or other measures directly capable of actively, controllably, reliably, and dynamically reducing peak demand ("dynamic peak management control".

(C) Megawatts available from distributed dynamic electricity storage under agreement with the owner of that storage.

(D) Megawatts committed from dispatchable distributed generation demonstrated to be reliable under peak period conditions.

(E) Megawatts available from smart appliances and equipment with Smart Grid capability available for direct control by the utility through agreement with the customer owning the appliances or equipment.

(F) Megawatts from a demonstrated and assured minimum of distributed solar electric generation capacity in instances where peak period and peak load conditions are directly related to solar radiation and accompanying heat.

(3) If any of the methods listed in subparagraph (C), (D), or (E) of paragraph (2) are relied upon to meet its peak demand reduction goals, the load-serving entity must demonstrate this capability by operating a test during the applicable calendar year.

(4) Nothing in this subtitle shall require the publication in peak demand reduction goals or in any peak demand reduction plan of any information that is confidential for competitive or other reasons or that identifies individual customers.

(e) EXISTING AUTHORITY AND REQUIREMENTS.—Nothing in this Act diminishes or supersedes any authority of a State or political subdivision of a State to adopt or enforce any law or regulation respecting peak load management, demand response, distributed storage, use of distributed generation, or the regulation of load-serving entities. The Commission, in consultation with States having such peak management, demand response and distributed storage programs, shall to the maximum extent practicable, facilitate coordination between the Federal program and such State programs.

(f) RELIEF.— he Commission may, for good cause, and grant relief to load-serving entities from the requirements of this section.

(g) OTHER LAWS.—Except as provided in subsections (e) and (f), no law or regulation shall relieve any person of any requirement otherwise applicable under this section.

(h) COMPLIANCE.—(1) The Commission shall within one year after the enactment of this Act establish a public domain website where the Commission will provide information and data demonstrating compliance by States, regional entities, and load-serving entities with this Act, including the success of load-serving entities in meeting applicable peak demand reduction goals.

(2) The Commission shall, by April 1 of each year beginning in 2012, provide a report to Congress on compliance with this Act and success in meeting applicable peak demand reduction goals and, as appropriate, shall make recommendations as to how to increase peak demand reduction efforts.

(3) The Commission shall note in each such report any State, political subdivision of a State, or load-serving entity that has failed to comply with this Act, or is not a part of any region or group of load-serving entities serving a region that has complied with this subtitle.

(4) The Commission shall have and exercise the authority to take reasonable steps to modify the process of establishing peak demand reduction goals and to accept adjustments to them as appropriate when sought by load-serving entities.

(i) ASSISTANCE AND FUNDING.—

(1) ASSISTANCE.—The Secretary may make grants to States and to other entities with responsibilities to be carried out under the Act to offset any documented costs of carrying out such responsibilities to the extent such costs are deemed burdensome or extraordinary by the Secretary.

(2) FUNDING.—There are authorized to be appropriated such sums as may be necessary to the Commission, the Secretary, and the Administrator to carry out the provisions of this subtitle.

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Section 134 of the Energy Policy Act of 2005 (42 U.S.C. 15832) is amended as follows:

(1) By amending the section heading to read as follows "**ENERGY EFFICIENCY AND SMART GRID PUBLIC INFORMATION INITIATIVE.**".

(2) In paragraph (1) of subsection (a) by striking "reduce energy consumption during the 4-year period beginning on the date of enactment of this Act" and inserting "increase energy efficiency and to adopt Smart Grid technology and practices".

(3) In paragraph (2) of subsection (a) by striking "benefits to consumers of reducing" and inserting "economic and environmental benefits to consumers and the United States of optimizing".

(4) In subsection (a) by inserting at the beginning of paragraph (3) "the effect of energy efficiency and Smart Grid capability in reducing energy and electricity prices throughout the economy, together with".

(5) In subsection (a)(4) by redesignating subparagraph (D) as (E), by striking "and" at the end of subparagraph (C), and by inserting after subparagraph (C) the following:

"(D) purchasing and utilizing equipment that includes Smart Grid features and capability; and".

(6) In subsection (c), by striking "Not later than July 1, 2009," and inserting, "For each year when appropriations pursuant to the authorization in this section exceed $10,000,000,".

(7) In subsection (d) by striking "2010" and inserting "2020".

(8) In subsection (e) by striking "2010" and inserting "2020".

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(a) AMENDMENT.—Section 124 of the Energy Policy Act of 2005 (42 U.S.C. 15821) is amended as follows:

(1) By amending the section heading to read as follows: "**ENERGY EFFICIENT AND SMART APPLIANCE REBATE PROGRAM**.".

(2) By redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and inserting after paragraph (3) the following:

"(4) SMART APPLIANCE.—The term 'smart appliance' means a product that the Administrator of the Environmental Protection Agency or the Secretary of Energy has determined qualifies for such a designation in the Energy Star program pursuant to section 213 of the American Clean Energy and Security Act of 2009, or that the Secretary or the Administrator has separately determined includes the relevant Smart Grid capabilities listed in section 1301 of the Energy Independence and Security Act of 2007 (15 U.S.C. 17381).".

(3) In subsection (b)(1) by inserting "and smart" after "efficient" and by inserting after "products" the first place it appears ", including products designated as being smart appliances,".

(4) In subsection (b)(3), by inserting "the administration of" after "carry out".

(5) In subsection (d), by inserting "the administration of" after "carrying out" and by inserting ", and up to 100 percent

of the value of the rebates provided pursuant to this section" before the period at the end.

(6) In subsection (e)(3), by inserting "with separate consideration as applicable if the product is also a smart appliance," after "Energy Star product" the first place it appears and by inserting "or smart appliance" before the period at the end.

(7) In subsection (f), by striking "$50,000,000" through the period at the end and inserting "such sums as may be necessary for each fiscal year from 2010 through 2015.".

(b) TABLE OF CONTENTS.—The item relating to section 124 in the table of contents for the Energy Policy Act of 2005 (42 U.S.C. 15801 and following) is amended to read as follows:

"Sec. 124. Energy efficient and smart appliance rebate program.".

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Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding after section 216 the following new section:

"SEC. 216A. TRANSMISSION PLANNING.

"(a) FEDERAL POLICY.—

"(1) OBJECTIVES.—It is the policy of the United States that regional electric grid planning should facilitate the deployment of renewable and other zero-carbon energy sources for generating electricity to reduce greenhouse gas emissions while ensuring reliability, reducing congestion, ensuring cyber-security, and providing for cost-effective electricity services throughout the United States.

"(2) OPTIONS.—In addition to the policy under paragraph (1), it is the policy of the United States that regional electric grid planning to meet these objectives should take into account all significant demand-side and supply-side options, including energy efficiency, distributed generation, renewable energy and zero-carbon electricity generation technologies, smart-grid technologies and practices, demand response, electricity storage, voltage regulation technologies, high capacity conductor and superconductor technologies, underground transmission technologies, and new conventional electric transmission capacity and corridors.

"(b) PLANNING.—

"(1) PLANNING PRINCIPLES.—Not later than 1 year after the date of enactment of this section, the Commission shall adopt, after notice and opportunity for comment, national electricity grid planning principles derived from the Federal policy established under subsection (a) to be applied in ongoing and future transmission planning that may implicate interstate transmission of electricity

"(2) REGIONAL PLANNING ENTITIES.—Not later than 3 months after the date of adoption by the Commission of national electricity grid planning principles pursuant to paragraph (1), entities that conduct or may conduct transmission planning pursuant to State or Federal law or regulation, including States, entities designated by States, public utility transmission providers, operators and owners, regional organizations, and electric utilities, and that are willing to incorporate the national electricity grid planning principles adopted by the Commission in their electric grid planning, shall identify themselves and the regions for which they propose to develop plans to the Commission.

"(3) COORDINATION OF REGIONAL PLANNING ENTITIES.—The Commission shall encourage regional planning entities described under paragraph (2) to cooperate and coordinate across regions and to harmonize regional electric grid planning with planning in adjacent or overlapping

jurisdictions to the maximum extent feasible. The Commission shall work with States, public utilities transmission providers, load-serving entities, transmission operators, and other organizations to resolve any conflict or competition among proposed planning entities in order to build consensus and promote the Federal policy established under subsection (a). The Commission shall seek to ensure that planning that is consistent with the national electricity grid planning principles adopted pursuant to paragraph (1) is conducted in all regions of the United States and the territories.

"(4) RELATION TO EXISTING PLANNING POLICY.—In implementing the Federal policy established under subsection (a), the Commission shall—

"(A) incorporate any ongoing planning efforts undertaken pursuant to section 217; and

"(B) consult with and invite the participation of the Secretary of Energy in relationship to the Secretary's duties pursuant to section 216.

"(5) ASSISTANCE.—

"(A) IN GENERAL.—The Commission shall provide support to and participate in the regional grid planning processes conducted by regional planning entities. The Commission may provide planning resources and assistance as required or as requested by regional planning entities, including system data, cost information, system analysis, technical expertise, modeling support, dispute resolution services, and other assistance to regional planning entities, as appropriate.

"(B) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.

"(6) CONFLICT RESOLUTION.—In the event that regional grid plans conflict, the Commission shall assist the regional planning entities in resolving such conflicts in order to achieve

the objectives of the Federal policy established under subsection (a).

"(7) SUBMISSION OF PLANS.—The Commission shall require regional planning entities to submit initial regional electric grid plans to the Commission not later than 18 months after the date the Commission promulgates national electricity grid planning principles pursuant to paragraph (1). Regional electric grid plans should, in general, be developed from sub-regional requirements and plans, including planning input reflecting individual utility service areas. Regional plans may then in turn be combined into larger regional plans, up to interconnection-wide and national plans, as appropriate and necessary as determined by the Commission. The Commission shall review such plans for consistency with the national grid planning principles and may return a plan to one or more planning entities for further consideration, along with the Commission's own recommendations for resolution of any conflict or for improvement. To the extent practicable, all plans submitted to the Commission shall be public documents and available on the Commission's website.

"(8) MULTI-REGIONAL MEETINGS.—As regional grid plans are submitted to the Commission, the Commission may convene multi-regional meetings to discuss regional grid plan consistency and integration, including requirements for multi-regional projects, and to resolve any conflicts that emerge from such multi-regional projects. The Commission shall provide its recommendations for eliminating any inter-regional conflicts.

"(9) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this section, the Commission shall provide a report to Congress containing the results of the regional grid planning process, including summaries of the adopted regional plans. The Commission shall provide an electronic version of its report on its website with links to all regional and sub-regional plans taken into account. The Commission shall note and provide its recommended resolution for any conflicts not resolved during the planning process. The Commission shall make any recommendations to

Congress on the appropriate Federal role or support required to address the needs of the electric grid, including recommendations for addressing any needs that are beyond the reach of existing State and Federal authority.".

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Section 203 of the Energy Policy Act of 2005 (42 U.S.C. 15852) is amended by adding at the end the following:

"(e) CONTRACTS FOR RENEWABLE ENERGY.—

"(1) IN GENERAL.—Notwithstanding section 501(b)(1)(B) of title 40, United States Code, a contract for the acquisition of renewable energy for the Federal Government may be made for a period of not more than 30 years.

"(2) EXCLUSION.—For purposes of this subsection, the term 'renewable energy' shall not include energy generated from municipal solid waste.

"(3) STANDARDIZED RENEWABLE ENERGY PURCHASE AGREEMENT.—Not later than 90 days after the date of enactment of this subsection, the Secretary, through the Federal Energy Management Program, shall publish a standardized renewable energy purchase agreement, setting forth commercial terms and conditions, that Federal agencies may use to acquire renewable energy.

"(4) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to assist Federal agencies in implementing this subsection.".

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(a) TITLE II—ENERGY SECURITY THROUGH INCREASED PRODUCTION OF BIOFUELS.—(1) Section 211(o)of the Clean Air Act (42 U.S.C. 7545(o)(1)), as amended by section 201 of the Energy Independence and Security Act of 2007 (Public Law 110-140; 121 Stat. 1519), is amended—

(A) in subparagraph (C) of paragraph (1), by striking "for gasoline or diesel" and all that follows through "in 2005" and inserting "for the fossil fuel that is replaced by renewable fuel"; and

(B) in subparagraphs (E) and (H) of paragraph (1), by inserting "after notice and opportunity for comment" after "Administrator" each place it appears.

(2) Section 211(o)(2)(A)(i) of the Clean Air Act (42 U.S.C. 7545(o)(2)(A)(i)) (as amended by section 202(a)(1) of the Energy Independence and Security Act of 2007 (121 Stat. 1521)) is amended in the last sentence by striking "new facilities" and inserting "new plants".

(3) Section 211(o)(7)(F) of the Clean Air Act (42 U.S.C. 7545(o)(7)(F)) (as amended by section 202(e)(3) of the Energy Independence and Security Act of 2007 (121 Stat. 1527)) is amended in the first sentence by inserting after "before 2016" the following: "and that each such modification shall be at a minimum equal to the projected volume available during the calendar year to which the modification applies".

(4) Section 211(c)(1) of the Clean Air Act (42 U.S.C. 7545(c)(1)) (as amended by section 208(1) of the Energy Independence and Security Act of 2007 (121 Stat. 1531)) is amended by inserting "(A)" after "nonroad vehicle".

(5) Section 211(v)(2)(A) of the Clean Air Act (42 U.S.C. 7545(v)(2)(A)) (as added by section 209 of the Energy Independence and Security Act of 2007 (121 Stat. 1531)) is amended by striking "achievable" and inserting "practicable".

(6) Section 210(a)(1) of the Energy Independence and Security Act of 2007 (42 U.S.C. 7545 note; Public Law 110–140) is amended in the second sentence by striking "For calendar years 2008 and 2009, any ethanol plant" and inserting "Renewable fuel from any ethanol plant that commences construction in calendar year 2008 or 2009".

(7) Section 230(a)(1) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17034(a)(1))) is amended by striking "7061" and inserting "7601".

(b) TITLE III—ENERGY SAVINGS THROUGH IMPROVED STANDARDS FOR APPLIANCE AND LIGHTING.—(1) Section 325(u) of the Energy Policy and Conservation Act (42 U.S.C. 6295(u)) (as amended by section 301(c) of the Energy Independence and Security Act of 2007 (121 Stat. 1550)) is amended—

(A) by redesignating paragraph (7) as paragraph (4); and

(B) in paragraph (4) (as so redesignated), by striking "supplies is" and inserting "supply is".

(2) Section 302 of the Energy Independence and Security Act of 2007 (121 Stat. 1551)) is amended—

(A) in subsection (a), by striking "end of the paragraph" and inserting "end of subparagraph (A)"; and

(B) in subsection (b), by striking "6313(a)" and inserting "6314(a)".

(3) Section 343(a)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)(1)) (as amended by section 302(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1551)) is amended—

(A) by striking "TEST PROCEDURES" and all that follows through "At least once" and inserting "TEST PROCEDURES.—At least once"; and

(B) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(4) Section 342(a)(6) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)(6)) (as amended by section 305(b)(2) of the Energy Independence and Security Act of 2007 (121 Stat. 1554)) is amended—

(A) in subparagraph (B)—

(i) by striking "If the Secretary" and inserting the following:

"(i) IN GENERAL.—If the Secretary"; and

(ii) by adding at the end the following:

"(ii) FACTORS.—In determining whether a standard is economically justified for the purposes of subparagraph (A)(ii)(II), the Secretary shall, after receiving views and comments furnished with respect to the proposed standard, determine whether the benefits of the standard exceed the burden of the proposed standard by, to the maximum extent practicable, considering—

"(I) the economic impact of the standard on the manufacturers and on the consumers of

the products subject to the standard;

"(II) the savings in operating costs throughout the estimated average life of the product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the products that are likely to result from the imposition of the standard;

"(III) the total projected quantity of energy savings likely to result directly from the imposition of the standard;

"(IV) any lessening of the utility or the performance of the products likely to result from the imposition of the standard;

"(V) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

"(VI) the need for national energy conservation; and

"(VII) other factors the Secretary considers relevant.

"(iii) ADMINISTRATION.—

"(I) ENERGY USE AND EFFICIENCY.—The Secretary may not prescribe any amended standard under this paragraph that increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered product.

"(II) UNAVAILABILITY.—

"(aa) IN GENERAL.—The Secretary may not prescribe an amended standard under this subparagraph if the Secretary finds (and publishes the finding) that interested persons have established by a

preponderance of the evidence that a standard is likely to result in the unavailability in the United States in any product type (or class) of performance characteristics (including reliability, features, sizes, capacities, and volumes) that are substantially the same as those generally available in the United States at the time of the finding of the Secretary.

"(bb) OTHER TYPES OR CLASSES.—The failure of some types (or classes) to meet the criterion established under this subclause shall not affect the determination of the Secretary on whether to prescribe a standard for the

other types or classes."; and

(B) in subparagraph (C)(iv), by striking "An amendment prescribed under this subsection" and inserting "Notwithstanding subparagraph (D), an amendment prescribed under this subparagraph".

(5) Section 306(c) of the Energy Independence and Security Act of 2007 (121 Stat. 1559) is amended—

(A) by striking "Section" and all that follows through "is amended" and inserting "Section 342(a)(6)(C) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)(6)(C)) (as amended by section 305(b)(2)) is amended";

(B) (i) by redesignating clause (iii) of section 342(a)(6)(B) of the Energy Policy and Conservation Act (as added by section 306(c) of the Energy Independence and Security Act of 2007) as clause (vi) of section 342(a)(6)(C) of the Energy Policy and Conservation Act (as amended by section 305(b)(2) of the Energy Independence and Security Act of 2007).

(6) Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) (as amended by sections 312(a)(2) and 314(a) of the Energy Independence and Security Act of 2007 (121 Stat. 1564, 1569) is amended by redesignating paragraphs (22) and (23) (as added by section 314(a) of that Act) as paragraphs (23) and (24), respectively.

(7) Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316) (as amended by section 312(e) of the Energy Independence and Security Act of 2007 (121 Stat. 1567)) is amended—

(A) by striking "subparagraphs (B) through (G)" each place it appears and inserting "subparagraphs (B), (C), (D), (I), (J), and (K)";

(B) by striking "part A" each place it appears and inserting "part B"; and

(C) in subsection (h)(3), by striking "section 342(f)(3)" and inserting "section 342(f)(4)".

(8) Section 340(13) of the Energy Policy and Conservation Act (42 U.S.C. 6311(13)) (as amended by section 313(a) of the Energy Independence and Security Act of 2007 (121 Stat. 1568)) is amended—

(A) by striking subparagraphs (A) and (B) and inserting the following:

"(A) IN GENERAL.—The term 'electric motor' means any motor that is—

"(i) a general purpose T-frame, single-speed, foot-mounting, polyphase squirrel-cage induction motor of the National Electrical Manufacturers Association, Design A and B, continuous rated, operating on 230/460 volts and constant 60 Hertz line power as defined in NEMA Standards Publication MG1-1987; or

"(ii) a motor incorporating the design elements described in clause (i) unless configured as a—

"(I) U-frame motor;

"(II) NEMA Design C motor;

"(III) close-coupled pump motor;

"(IV) footless motor;

"(V) vertical solid shaft normal thrust motor (as tested in a horizontal configuration);

"(VI) 8-pole motor; or

"(VII) poly-phase motor with a voltage rating of not more than 600 volts (other than 230 volts or 460 volts, or both, or can be operated on 230 volts or 460 volts, or both)."; and

(B) by redesignating subparagraphs (C) through (I) as subparagraphs (B) through (H), respectively.

(9) (A) Section 342(b) of the Energy Policy and Conservation Act (42 U.S.C. 6313(b)) is amended—

(i) in paragraph (1), by striking "paragraph (2)" and inserting "paragraph (3)";

(ii) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4);

(iii) by inserting after paragraph (1) the following:

"(2) STANDARDS EFFECTIVE BEGINNING DECEMBER 19, 2010.—

"(A) IN GENERAL.—Except for definite purpose motors, special purpose motors, and those motors exempted by the Secretary under paragraph (3) and except as provided for in subparagraphs (B), (C), and (D), each electric motor manufactured (alone or as a component of another piece of equipment) on or after December 19, 2010, shall have a nominal full load efficiency of not less than the nominal full load efficiency described in NEMA MG-1 (2006) Table 12-12.

"(B) FIRE PUMP ELECTRIC MOTORS.—Except for those motors exempted by the Secretary under paragraph (3), each fire pump electric motor manufactured (alone or as a component of another piece of equipment) on or after December 19, 2010, shall have a nominal full load efficiency that is not less than the nominal full load efficiency described in NEMA MG-1 (2006) Table 12-11.

"(C) NEMA DESIGN B ELECTRIC MOTORS.—Except for those motors exempted by the Secretary under paragraph (3), each NEMA Design B electric motor with power ratings of more than 200 horsepower, but not greater than 500 horsepower, manufactured (alone or as a component of another piece of equipment) on or after December 19, 2010, shall have a nominal full load efficiency of not less than the nominal full load efficiency described in NEMA MG-1 (2006) Table 12-11.

"(D) MOTORS INCORPORATING CERTAIN DESIGN ELEMENTS.—Except for those motors exempted by the Secretary under paragraph (3), each electric motor described in section 340(13)(A)(ii) manufactured (alone or as a component of another piece of equipment) on or after December 19, 2010, shall have a nominal full load efficiency of not less than the nominal full load efficiency described in NEMA MG-1 (2006) Table 12-11."; and

(iv) in paragraph (3) (as redesignated by clause (ii)), by striking "paragraph (1)" each place it appears in subparagraphs (A) and (D) and inserting "paragraphs (1) and (2)".

(B) Section 313 of the Energy Independence and Security Act of 2007 (121 Stat. 1568) is repealed.

(C) The amendments made by—

(i) subparagraph (A) take effect on December 19, 2010; and

(ii) subparagraph (B) take effect on December 19, 2007.

(10) Section 321(30)(D)(i)(III) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(D)(i)(III)) (as amended by section 321(a)(1)(A) of the Energy Independence and Security Act of 2007 (121 Stat. 1574)) is amended by inserting before the semicolon the following: "or, in the case of a modified spectrum lamp, not less than 232 lumens and not more than 1,950 lumens".

(11) Section 321(30)(T) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(T) (as amended by section 321(a)(1)(B) of the Energy Independence and Security Act of 2007 (121 Stat. 1574)) is amended—

(A) in clause (i)—

(i) by striking the comma after "household appliance" and inserting "and"; and

(ii) by striking "and is sold at retail,"; and

(B) in clause (ii), by inserting "when sold at retail," before "is designated".

(12) Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) (as amended by sections 321(a)(3)(A) and 322(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1577, 1588)) is amended by striking subsection (i) and inserting the following:

"(i) GENERAL SERVICE FLUORESCENT LAMPS GENERAL SERVICE INCANDESCENT LAMPS, INTERMEDIATE BASE INCANDESCENT LAMPS, CANDELABRA BASE INCANDESCENT LAMPS, AND INCANDESCENT REFLECTOR LAMPS.—

"(1) ENERGY EFFICIENCY STANDARDS.—

"(A) IN GENERAL.—Each of the following general service fluorescent lamps, general service incandescent lamps, intermediate base incandescent lamps, candelabra base incandescent lamps, and incandescent reflector lamps manufactured after the effective date specified in the tables listed in this subparagraph shall meet or exceed the following lamp efficacy, new maximum wattage, and CRI standards:

FLUORESCENT LAMPS

Lamp Type	Nominal Lamp Wattage	Minimum CRI	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
4-foot medium bi-pin	>35 W	69	75.0	36

FLUORESCENT LAMPS

Lamp Type	Nominal Lamp Wattage	Minimum CRI	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
	≤35 W	45	75.0	36
2-foot U-shaped	>35 W	69	68.0	36
	≤35 W	45	64.0	36
8-foot slimline	65 W	69	80.0	18
	≤65 W	45	80.0	18
8-foot high output	>100 W	69	80.0	18
	≤100 W	45	80.0	18

INCANDESCENT REFLECTOR LAMPS

Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
40–50	10.5	36
51–66	11.0	36
67–85	12.5	36
86–115	14.0	36
116–155	14.5	36
156–205	15.0	36

GENERAL SERVICE INCANDESCENT LAMPS

Rated Lumen Ranges	Maximum Rate Wattage	Minimum Rated Lifetime	Effective Date
1490–2600	72	1,000 hrs	1/1/2012
1050–1489	53	1,000 hrs	1/1/2013
750–1049	43	1,000 hrs	1/1/2014
310–749	29	1,000 hrs	1/1/2014

MODIFIED SPECTRUM GENERAL SERVICE INCANDESCENT LAMPS

Rated Lumen Ranges	Maximum Rate Wattage	Minimum Rated Lifetime	Effective Date
1118–1950	72	1,000 hrs	1/1/2012
788–1117	53	1,000 hrs	1/1/2013
563–787	43	1,000 hrs	1/1/2014
232–562	29	1,000 hrs	1/1/2014

"(B) APPLICATION.—

"(i) APPLICATION CRITERIA.—This subparagraph applies to each lamp that—

"(I) is intended for a general service or general illumination application (whether incandescent or not);

"(II) has a medium screw base or any other screw base not defined in ANSI C81.61–2006;

"(III) is capable of being operated at a voltage at least partially within the range of 110 to 130 volts; and

"(IV) is manufactured or imported after December 31, 2011.

"(ii) REQUIREMENT.—For purposes of this paragraph, each lamp described in clause (i) shall have a color rendering index that is greater than or equal to—

"(I) 80 for nonmodified spectrum lamps; or

"(II) 75 for modified spectrum lamps.

"(C) CANDELABRA INCANDESCENT LAMPS AND INTERMEDIATE BASE INCANDESCENT LAMPS.—

"(i) CANDELABRA BASE INCANDESCENT LAMPS.—Effective beginning January 1, 2012, a candelabra base incandescent lamp shall not exceed 60 rated watts.

"(ii) INTERMEDIATE BASE INCANDESCENT LAMPS.—Effective beginning January 1, 2012, an intermediate base incandescent lamp shall not exceed 40 rated watts.

"(D) EXEMPTIONS.—

"(i) STATUTORY EXEMPTIONS.—The standards specified in subparagraph (A) shall not apply to the following types of incandescent reflector lamps:

"(I) Lamps rated at 50 watts or less that are ER30, BR30, BR40, or ER40 lamps.

"(II) Lamps rated at 65 watts that are BR30, BR40, or ER40 lamps.

"(III) R20 incandescent reflector lamps rated 45 watts or less.

"(ii) ADMINISTRATIVE EXEMPTIONS.—

"(I) PETITION.—Any person may petition the Secretary for an exemption for a type of general service lamp from the requirements of this subsection.

"(II) CRITERIA.—The Secretary may grant an exemption under subclause (I) only to the extent that the Secretary finds, after a hearing and opportunity for public comment, that it is not technically feasible to serve a specialized lighting application (such as a military, medical, public safety, or certified historic lighting application) using a lamp that meets the requirements of this subsection.

"(III) ADDITIONAL CRITERION.—To grant an exemption for a product under this clause , the Secretary shall include, as an additional criterion, that the exempted product is unlikely to be used in a general service lighting application.

"(E) EXTENSION OF COVERAGE.—

"(i) PETITION.—Any person may petition the Secretary to establish standards for lamp shapes or bases that are excluded from the definition of general service lamps.

"(ii) INCREASED SALES OF EXEMPTED LAMPS.—The petition shall include evidence that the availability or sales of exempted incandescent lamps have increased significantly since the date on which the standards on general service incandescent lamps were established.

"(iii) CRITERIA.—The Secretary shall grant a petition under clause (i) if the Secretary finds that—

"(I) the petition presents evidence that demonstrates that commercial availability or sales of exempted incandescent lamp types have increased significantly since the standards on general service lamps were established and likely are being widely used in general lighting applications; and

"(II) significant energy savings could be achieved by covering exempted products, as determined by the Secretary based in part on sales data provided to the Secretary from manufacturers and importers.

"(iv) NO PRESUMPTION.—The grant of a petition under this subparagraph shall create no presumption with respect to the determination of the Secretary with respect to any criteria under a rulemaking conducted under this section.

"(v) EXPEDITED PROCEEDING.—If the Secretary grants a petition for a lamp shape or base under this subparagraph, the Secretary shall—

"(I) conduct a rulemaking to determine standards for the exempted lamp shape or base; and

"(II) complete the rulemaking not later than 18 months after the date on which notice is provided granting the petition.

"(F) EFFECTIVE DATES.—

"(i) IN GENERAL.—In this paragraph, except as otherwise provided in a table contained in subparagraph (A) or in clause (ii), the term 'effective date' means the last day of the month specified in the table that follows October 24, 1992.

"(ii) SPECIAL EFFECTIVE DATES.—

"(I) ER, BR, AND BPAR LAMPS.—The standards specified in subparagraph (A) shall apply with respect to ER incandescent reflector lamps, BR incandescent reflector lamps, BPAR incandescent reflector lamps, and similar bulb shapes on and after January 1, 2008, or the date that is 180 days after the date of enactment of the Energy Independence and Security Act of 2007.

"(II) LAMPS BETWEEN 2.25–2.75 INCHES IN DIAMETER.—The standards specified in subparagraph (A) shall apply with respect to incandescent reflector lamps with a diameter of more than 2.25 inches, but not more than 2.75 inches, on and after the later of January 1, 2008, or the date that is 180 days after the date of enactment of the Energy Independence and Security Act of 2007.

"(2) COMPLIANCE WITH EXISTING LAW.—Notwithstanding section 332(a)(5) and section 332(b), it shall not be unlawful for a manufacturer to sell a lamp that is in compliance with the law at the time the lamp was manufactured.

"(3) RULEMAKING BEFORE OCTOBER 24, 1995.—

"(A) IN GENERAL.—Not later than 36 months after October 24, 1992, the Secretary shall initiate a rulemaking procedure and shall publish a final rule not later than the end of the 54-month period beginning on October 24, 1992, to determine whether the standards established under paragraph (1) should be amended.

"(B) ADMINISTRATION.—The rule shall contain the amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date on which the final rule is published.

"(4) RULEMAKING BEFORE OCTOBER 24, 2000.—

"(A) IN GENERAL.—Not later than 8 years after October 24, 1992, the Secretary shall initiate a rulemaking procedure and shall publish a final rule not later than 9 years and 6 months after October 24, 1992, to determine whether the standards in effect for fluorescent lamps and incandescent lamps should be amended.

"(B) ADMINISTRATION.—The rule shall contain the amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date on which the final rule is published.

"(5) RULEMAKING FOR ADDITIONAL GENERAL SERVICE FLUORESCENT LAMPS.—

"(A) IN GENERAL.—Not later than the end of the 24-month period beginning on the date labeling requirements under section 324(a)(2)(C) become effective, the Secretary shall—

"(i) initiate a rulemaking procedure to determine whether the standards in effect for

fluorescent lamps and incandescent lamps should be amended so that the standards would be applicable to additional general service fluorescent lamps; and

"(ii) publish, not later than 18 months after initiating the rulemaking, a final rule including the amended standards, if any.

"(B) ADMINISTRATION.—The rule shall provide that the amendment shall apply to products manufactured after a date which is 36 months after the date on which the rule is published.

"(6) STANDARDS FOR GENERAL SERVICE LAMPS.—

"(A) RULEMAKING BEFORE JANUARY 1, 2014.—

"(i) IN GENERAL.—Not later than January 1, 2014, the Secretary shall initiate a rulemaking procedure to determine whether—

"(I) standards in effect for general service lamps should be amended; and

"(II) the exclusions for certain incandescent lamps should be maintained or discontinued based, in part, on excluded lamp sales collected by the Secretary from manufacturers.

"(ii) SCOPE.—The rulemaking—

"(I) shall not be limited to incandescent lamp technologies; and

"(II) shall include consideration of a minimum standard of 45 lumens per watt for general service lamps.

"(iii) AMENDED STANDARDS.—If the Secretary determines that the standards in effect for general service lamps should be amended, the Secretary shall publish a final rule not later than January 1, 2017, with an effective date that is not earlier than 3 years after the date on which the final rule is published.

"(iv) PHASED-IN EFFECTIVE DATES.—The Secretary shall consider phased-in effective dates under this subparagraph after considering—

"(I) the impact of any amendment on manufacturers, retiring and repurposing existing equipment, stranded investments, labor contracts, workers, and raw materials; and

"(II) the time needed to work with retailers and lighting designers to revise sales and marketing strategies.

"(v) BACKSTOP REQUIREMENT.—If the Secretary fails to complete a rulemaking in accordance with clauses (i) through (iv) or if the final rule does not produce savings that are greater than or equal to the savings from a minimum efficacy standard of 45 lumens per watt, effective beginning January 1, 2020, the Secretary shall prohibit the manufacture of any general service lamp that does not meet a minimum efficacy standard of 45 lumens per watt.

"(vi) STATE PREEMPTION.—Neither section 327 nor any other provision of law shall preclude California or Nevada from adopting, effective beginning on or after January 1, 2018—

"(I) a final rule adopted by the Secretary in accordance with clauses (i) through (iv);

"(II) if a final rule described in subclause (I) has not been adopted, the backstop requirement under clause (v); or

"(III) in the case of California, if a final rule described in subclause (I) has not been adopted, any California regulations relating to these covered products adopted pursuant to State statute in effect as of the date of enactment of the Energy Independence and Security Act of 2007.

"(B) RULEMAKING BEFORE JANUARY 1, 2020.—

"(i) IN GENERAL.—Not later than January 1, 2020, the Secretary shall initiate a rulemaking procedure to determine whether—

"(I) standards in effect for general service lamps should be amended; and

"(II) the exclusions for certain incandescent lamps should be maintained or discontinued based, in part, on excluded lamp sales data collected by the Secretary from manufacturers.

"(ii) SCOPE.—The rulemaking shall not be limited to incandescent lamp technologies.

"(iii) AMENDED STANDARDS.—If the Secretary determines that the standards in effect for general service lamps should be amended, the Secretary shall publish a final rule not later than January 1, 2022, with an effective date that is not earlier than 3 years after the date on which the final rule is published.

"(iv) PHASED-IN EFFECTIVE DATES.—The Secretary shall consider phased-in effective dates under this subparagraph after considering—

"(I) the impact of any amendment on manufacturers, retiring and repurposing existing equipment, stranded investments, labor contracts, workers, and raw materials; and

"(II) the time needed to work with retailers and lighting designers to revise sales and marketing strategies.

"(7) FEDERAL ACTIONS.—

"(A) COMMENTS OF SECRETARY.—

"(i) IN GENERAL.—With respect to any lamp to which standards are applicable under this subsection or any lamp specified in section 346, the Secretary shall inform any Federal entity proposing actions that would adversely impact the energy consumption or energy efficiency of the lamp of the energy conservation consequences of the action.

"(ii) CONSIDERATION.—The Federal entity shall carefully consider the comments of the Secretary.

"(B) AMENDMENT OF STANDARDS.—Notwithstanding section 325(n)(1), the Secretary shall not be prohibited from amending any standard, by rule, to permit increased energy use or to decrease the minimum required energy efficiency of any lamp to which standards are applicable under this subsection if the action is warranted as a result of other Federal action (including restrictions on materials or processes) that would have the effect of either increasing the energy use or decreasing the energy efficiency of the product.

"(8) COMPLIANCE.—

"(A) IN GENERAL.—Not later than the date on which standards established pursuant to this subsection become effective, or, with respect to high-intensity discharge lamps covered under section 346, the effective date of standards established pursuant to that section, each manufacturer of a product to which the standards are applicable shall file with the Secretary a laboratory report certifying compliance with the applicable standard for each lamp type.

"(B) CONTENTS.—The report shall include the lumen output and wattage consumption for each lamp type as an average of measurements taken over the preceding 12-month period.

"(C) OTHER LAMP TYPES.—With respect to lamp types that are not manufactured during the 12-month period preceding the date on which the standards become effective, the report shall—

"(i) be filed with the Secretary not later than the date that is 12 months after the date on which manufacturing is commenced; and

"(ii) include the lumen output and wattage consumption for each such lamp type as an average of measurements taken during the 12-month period.".

(13) Section 325(l)(4)(A) of the Energy Policy and Conservation Act (42 U.S.C. 6295(l)(4)(A)) (as amended by section 321(a)(3)(B) of the Energy Independence and Security Act of 2007 (121 Stat. 1581)) is amended by striking "only".

(14) Section 327(b)(1)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6297(b)(1)(B)) (as amended by section 321(d)(3) of the Energy Independence and Security Act of 2007 (121 Stat. 1585)) is amended—

(A) in clause (i), by inserting "and" after the semicolon at the end;

(B) in clause (ii), by striking "; and" and inserting a period; and

(C) by striking clause (iii).

(15) Section 321(e) of the Energy Independence and Security Act of 2007 (121 Stat. 1586) is amended—

(A) in the matter preceding paragraph (1), by striking "is amended" and inserting "(as amended by section 306(b)) is amended"; and

(B) by striking paragraphs (1) and (2) and inserting the following:

"(1) in paragraph (5), by striking 'or' after the semicolon at the end;

"(2) in paragraph (6), by striking the period at the end and inserting '; or'; and".

(16) Section 332(a) of the Energy Policy and Conservation Act (42 U.S.C. 6302(a)) (as amended by section 321(e) of the Energy Independence and Security Act of 2007 (121 Stat. 1586)) is amended by redesignating the second paragraph (6) as paragraph (7).

(17) Section 321(30)(C)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(C)(ii)) (as amended by section 322(a)(1)(B) of the Energy Independence and Security Act of 2007 (121 Stat. 1587)) is amended by inserting a period after "40 watts or higher".

(18) Section 322(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1588)) is amended by striking "6995(i)" and inserting "6295(i)".

(19) Section 327(c) of the Energy Policy and Conservation Act (42 U.S.C. 6297(c)) (as amended by sections 324(f) of the Energy Independence and Security Act of 2007 (121 Stat. 1594)) is amended—

(A) in paragraph (6), by striking "or" after the semicolon at the end;

(B) in paragraph (8)(B), by striking "and" after the semicolon at the end;

(C) in paragraph (9)—

(i) by striking "except that—" and all that follows through "if the Secretary fails to issue" and inserting "except that if the Secretary fails to issue";

(ii) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(iii) by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

"(10) is a regulation for general service lamps that conforms with Federal standards and effective dates; or

"(11) is an energy efficiency standard for general service lamps enacted into law by the State of Nevada prior to December 19, 2007, if the State has not adopted the Federal standards and effective dates pursuant to subsection (b)(1)(B)(ii).".

(20) Section 325(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1596)) is amended by striking "6924(c)" and inserting "6294(c)".

(c) TITLE IV—ENERGY SAVINGS IN BUILDINGS AND INDUSTRY.—

(1) Section 401 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17061) is amended—

(A) in paragraph (2), by striking "484" and inserting "494"; and

(B) in paragraph (13), by striking "Agency" and inserting "Administration".

(2) Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) (as amended by section 411(a) of the Energy Independence and Security Act of 2007 (121 Stat. 1600)) is amended by striking 1 of the 2 periods at the end of paragraph (5).

(3) Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) (as amended by sections 432 and 434(a) of the Energy Independence and Security Act of 2007 (121 Stat. 1607, 1614) is amended by redesignating subsection (f) (as added by section 434(a) of that Act) as subsection (g).

(4) Section 305(a)(3)(D)(i) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)(D)(i)) (as amended by section 433(a) of the Energy Independence and Security Act of 2007 (121 Stat. 1612)) is amended—

(A) in subclause (I)_

(i) by striking "in fiscal year 2003 (as measured by Commercial Buildings Energy Consumption Survey or Residential Energy Consumption Survey data from the Energy Information Agency" and inserting "as measured by the calendar year 2003 Commercial Buildings Energy Consumption Survey or the calendar year 2005 Residential Energy Consumption Survey data from the Energy Information Administration"; and

(ii) in the table at the end, by striking "Fiscal Year" and inserting "Calendar Year"; and

(B) in subclause (II)—

(i) by striking "(II) Upon petition" and inserting the following:

"(II) DOWNWARD ADJUSTMENT OF NUMERIC REQUIREMENT.—

"(aa) IN GENERAL.—On petition"; and

(ii) by striking the last sentence and inserting the following:

"(bb) EXCEPTIONS TO REQUIREMENT FOR CONCURRENCE OF SECRETARY.—

"(AA) IN GENERAL.—The requirement to petition and obtain the concurrence of the Secretary under this subclause shall not apply to any Federal building with respect to which the Administrator of General Services is required to

transmit a prospectus to Congress under section 3307 of title 40, United States Code, or to any other Federal building designed, constructed, or renovated by the Administrator if the Administrator certifies, in writing, that meeting the applicable numeric requirement under subclause (I) with respect to the Federal building would be technically impracticable in light of the specific

functional needs for the building.

"(BB) ADJUSTMENT.—In the case of a building described in subitem (AA), the Administrator may adjust the applicable numeric requirement of subclause (I) downward with respect to the building.".

(5) Section 436(c)(3) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17092(c)(3)) is amended by striking "474" and inserting "494".

(6) Section 440 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17096) is amended by striking "and 482".

(7) Section 373(c) of the Energy Policy and Conservation Act (42 U.S.C. 6343(c)) (as amended by section 451(a) of the Energy Independence and Security Act of 2007 (121 Stat. 1628)) is amended by striking "Administrator" and inserting "Secretary".

(d) TITLE V—ENERGY SAVINGS IN GOVERNMENT AND PUBLIC INSTITUTIONS.—(1) Section 303 of the Public Utility Regulatory Policies Act of 1978 (15 U.S.C. 3203) (as amended by subsections (b) and (c) of section 532 of the Energy Independence and Security Act of 2007 (121 Stat. 1666)) is amended—

(A) in subsection (a), by striking "(or" and all that follows through ", each State" and inserting "(or after October 24, 1992, in the case of standards under paragraphs (3) and (4) of subsection (b), or after December 19, 2007, in the case of standards under paragraphs (5) and (6) of subsection (b)), each State"; and

(B) in the second sentence of subsection (b)(6)(B), by striking "subtitle" each place it appears and inserting "title".

(2) Section 521(a) of the Energy Independence and Security Act of 2007 (121 Stat. 1661) is amended by striking "the Sun Wall Design Project" and inserting "an approved project prospectus".

(3) Section 541(3)(A)(i)(II) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17151(3)(A)(i)(II)) is amended by striking "and" after the semicolon at the end and inserting "or".

(e) TITLE VI—ACCELERATED RESEARCH AND DEVELOPMENT.—(1) Section 641(h)(7)(A) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17231(h)(7)(A)) is amended by striking "a energy" and inserting "an energy".

(2) Section 655(b) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17243(b)) is amended—

(A) in paragraph (1), by striking "solid-state light package" and inserting "solid-state-light package"; and

(B) in paragraph (3), by striking "sold-state-light-light" and inserting "solid-state-light package".

(f) TITLE VIII—IMPROVED MANAGEMENT OF ENERGY POLICY.—Section 807(a)(2) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17286(a)(2)) is amended by striking "the the" and inserting "the".

(g) TITLE IX—INTERNATIONAL ENERGY PROGRAMS.—Section 916(b) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17336(b)) is amended by striking "the Export of Clean and Efficient Energy Technologies" each place it appears in paragraphs (1) and (4)(A) and inserting "Clean and Efficient Energy Technology Exports".

(h) TITLE X—GREEN JOBS.—Section 171(e)(4)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2916(e)(4)(A)) (as added by section 1002 of the Energy Independence and Security Act of 2007 (121 Stat. 1754)) is amended by striking "of the Workforce Investment Act of 1998 (29 U.S.C. 2931 and 2938)".

(i) TITLE XI—ENERGY TRANSPORTATION AND INFRASTRUCTURE.—(1) Section 53501(5)(A)(iii) of title 46, United States Code (as amended by section 1122(a)(1) of the Energy Independence and Security Act of 2007 (121 Stat. 1762)), is amended by striking "trade trade" and inserting "trade".

(2) Section 53501 of title 46, United States Code (as amended by section 1122(a)(2) of the Energy Independence and Security Act of 2007 (121 Stat. 1762)), is amended by redesignating the second paragraph (7) (relating to the definition of "United States foreign trade") and paragraph (8) (relating to the definition of "vessel") as paragraphs (8) and (9), respectively.

(j) TITLE XII—SMALL BUSINESS ENERGY PROGRAMS.—(1) Section 103(18)(E) of the Small Business Investment Act of 1958 (15 U.S.C. 662(18)(E)) (as added by section 1205(b)(3) of the Energy Independence and Security Act of 2007 (121 Stat. 1772)) is amended by inserting "Federal" before "Credit".

(2) Section 1206(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1774) is amended by striking "(15 U.S.C. 303(b)(4)) is amended by adding at the end" and inserting "(15 U.S.C. 683(b)(4)) is amended by inserting after subparagraph (D)".

(3) Section 394 of the Small Business Investment Act of 1958 (15 U.S.C. 690m) (as added by section 1207 of the Energy Independence and

Security Act of 2007 (121 Stat. 1783)) is amended by inserting a comma after "314".

(k) TITLE XIII—SMART GRID.—(1) Section 1302 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17382) is amended in the first sentence by striking "enactment" and inserting "the date of enactment of this Act".

(2) Section 1305 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17385(c)) is amended—

(A) in subsection (a)(2), by striking "International" and inserting "Institute of"; and

(B) in subsection (c), by striking "of enactment" and inserting "after the date of enactment of this Act".

(3) Section 1306(c)(3) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17386(c)(3)) is amended by striking "section 1307 (paragraph (17) of section 111(d) of the Public Utility Regulatory Policies Act of 1978)" and inserting "paragraph (19) of section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d))".

(l) EFFECTIVE DATE.—This section and the amendments made by this section take effect as if included in the Energy Independence and Security Act of 2007 (Public Law 110–140; 121 Stat. 1492).

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(a) TABLE OF CONTENTS; DEFINITIONS.—(1) The table of contents in section 1(b) of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 594) is amended by inserting after the item relating to section 1 the following: "

"Sec. 2. Definitions.".

(2) Section 2(2)(A) of the Energy Policy Act of 2005 (42 U.S.C. 15801(2)(A)) is amended by striking "Higher Education Act of 1065" and inserting "Higher Education Act of 1965".

(b) TITLE I—ENERGY EFFICIENCY.—Section 325(g)(8)(C)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6295(g)(8)(C)(ii)) (as added by section 135(c)(2)(B) of the Energy Policy Act of 2005) is amended by striking "20°F" and inserting "–20°F".

(c) TITLE II—RENEWABLE ENERGY.—(1) Section 2(g) of the Geothermal Steam Act of 1970 (30 U.S.C. 1001(g)) (as added by section 236(2) of the Energy Policy Act of 2005) is amended by striking "; and" at the end and inserting a period.

(2) Section 33(a)(2)(B) of the Federal Power Act (16 U.S.C. 823d(a)(2)(B)) (as added by section 241(c) of the Energy Policy Act of 2005) is amended by inserting "determined necessary" after "initially".

(d) TITLE III—OIL AND GAS.—Section 347(b) of the Energy Policy Act of 2005 (119 Stat. 704) is amended—

(1) in paragraph (2), by striking the ending quotation marks after "Alaska" and the following period and inserting a period;

(2) in paragraph (3), by striking the ending quotation marks after "Reserve" and the following period and inserting a period;

(3) in paragraph (4), by striking the ending quotation marks after "seq.)" and the following period and inserting a period;

(4) in paragraph (5), by striking the ending quotation marks after "this section" and the following period and inserting a period;

(5) in paragraph (6), by striking the ending quotation marks after "629)" and the following period and inserting a period;

(6) in paragraph (7), by striking the ending quotation marks after "structures" and the following period and inserting a period;

(7) in paragraph (8), by striking the ending quotation marks after "Secretary" and the following period and inserting a period; and

(8) in paragraph (11), by inserting a period after "provided therein".

(e) TITLE IV—COAL.—Section 417(d)(3) of the Energy Policy Act of 2005 (42 U.S.C. 15977(d)(3)) is amended by striking "the Act" and inserting "this Act".

(f) TITLE VI—NUCLEAR MATTERS.—(1) Section 641(b)(1) of the Energy Policy Act of 2005 (42 U.S.C. 16021(b)(1)) is amended by striking "942(d)" and inserting "952(d)".

(2) Section 655(a) of the Energy Policy Act of 2005 (119 Stat. 813) is amended by striking "236a." and inserting "236 a.".

(g) TITLE VII—VEHICLES AND FUELS.—(1) Section 514(b)(1)(B) of the Energy Policy Act of 1992 (42 U.S.C. 13263a(b)(1)(B)) (as added by section 703(a)(2) of the Energy Policy Act of 2005) is amended—

(A) by striking "a reduction equal to"; and

(B) by striking "given credit under section 508".

(2) Section 782(c)(1)(A)(i) of the Energy Policy Act of 2005 (42 U.S.C. 16122(c)(1)(A)(i)) is amended by striking "March 2000" and inserting "January 1, 1999".

(3) Section 783(c) of the Energy Policy Act of 2005 (42 U.S.C. 16123(c)) is amended by striking "section 808 of this Act" and inserting "section 782(c)".

(h) TITLE IX—RESEARCH AND DEVELOPMENT.—(1) Section 306(b)(1)(F) of the Biomass Research and Development Act of 2000 (7 U.S.C. 8605(b)(1)(F)) (as redesignated by section 941(d)(1)(B) of the Energy Policy Act of 2005) is amended by striking "an individual" and inserting "2 individuals".

(2) Section 999B(c)(1) of the Energy Policy Act of 2005 (42 U.S.C. 16372(c)(1)) is amended in the first sentence by striking "this chapter" and inserting "this subtitle".

(3) Section 5(b)(2) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5904(b)(2)) is amended by striking "Administrator" and inserting "Secretary".

(i) TITLE XI—PERSONNEL AND TRAINING.—Section 1102(b) of the Energy Policy Act of 2005 (Public Law 109–58) is amended—

(1) by striking "3165" and inserting "3165(a)"; and

(2) by striking "7381b" and inserting "7381b(a)".

(j) TITLE XII—ELECTRICITY.—(1) Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) (as amended by section 1254(b)(2) of the Energy Policy Act of 2005) is amended as follows:

(A) By striking the last sentence of subsection (d).

(B) By inserting at the end of subsection (c) the following: "In the case of the standards established by paragraphs (16) through (19) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs."
.

(2) Section 314(d) of the Federal Power Act (16 U.S.C. 825m(d)) (as added by section 1288 of the Energy Policy Act of 2005) is amended by striking "section 221" and inserting "section 222".

(k) TITLE XV—ETHANOL AND MOTOR FUELS.—(1) Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(A) by redesignating subsection (q) (as added by section 1506 of the Energy Policy Act of 2005) as subsection (p); and

(B) by redesignating subsections (r) through (v) as subsections (q) through (u), respectively.

(2) Section 212(b) of the Clean Air Act (42 U.S.C. 7546(b)) (as added by section 1511 of the Energy Policy Act of 2005) is amended—

(A) in paragraph (1)—

(i) by striking "title XIV of the Energy Policy Act" and inserting "title XV of the Energy Policy Act of 2005 (42 U.S.C. 16501 et seq.)"; and

(ii) by striking "sucrose-derived"; and

(B) in paragraph (2)(A), by striking "sucrose-derived".

(3) Section 1530(d) of the Energy Policy Act of 2005 (Public Law 109–58) is amended by striking paragraphs (1) through (3) and inserting the following:

"(1) By striking the comma at the end of subparagraph (E) and inserting '; or'.

"(2) By adding after subparagraph (E) the following:

" '(F) the requirements established in section 9003.' ".

.' ".

(4) Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) (as amended by section 1541(b) of the Energy Policy Act of 2005) is amended by redesignating the second clause (v) as clause (vi).

(l) TITLE XVIII—STUDIES.—Sections 1808 and 1832 of the Energy Policy Act of 2005 (42 U.S.C. 16522, 16524) are repealed.

(m) EFFECTIVE DATE.—This section and the amendments made by this section take effect as if included in the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 594).

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(a) IN GENERAL.—Section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) is amended to read as follows:

"SEC. 304. UPDATING STATE BUILDING ENERGY EFFICIENCY CODES.

"(a) UPDATING NATIONAL MODEL BUILDING ENERGY CODES.—(1) (A) The Secretary shall support updating the national model building energy codes and standards at least every 3 years to achieve the energy savings targets set under subparagraph (B).

"(B) (i) The applicable target for overall nationwide energy savings, compared to the 2006 IECC for residential buildings and ASHRAE Standard 90.1-2004 for commercial buildings, for the national model building energy codes and standards shall be—

"(I) 30 percent in editions of each model code or standard released after the date of enactment of the American Clean Energy and Security Act of 2009;

"(II) 50 percent in editions of each model code or standard released after January 1, 2016; and

"(III) as set by the Secretary under clause (ii).

"(ii) The Secretary—

"(I) may set targets to supplement the targets set under clause (i)(I) or (II) and under subclause (II) of this clause for any year after 2012; and

"(II) shall set targets at least once every 3 years after 2016.

"(iii) Any target set by the Secretary under clause (ii)—

"(I) shall be set at least 3 years in advance of the year in which it first applies;

"(II) shall be coordinated with the IECC and ASHRAE Standard 90.1 cycles;

"(III) shall be set at the maximum level of energy efficiency that is technologically feasible and life-cycle cost effective, and on a path to achieving net-zero-energy buildings; and

"(IV) shall provide for at least an equivalent level of energy efficiency as that of any previous target set under this subparagraph.

"(iv) If the Secretary fails to set a target as required under clause (ii)(II), the target shall be the maximum of previous targets set under clause (i).

"(2) (A) Not later than 90 days after the date of enactment of the American Clean Energy and Security Act of 2009, and not later than 90 days after the date of a revision of the provisions of the IECC or ASHRAE Standard 90.1 regarding building energy use, the Secretary shall make a preliminary determination on—

"(i) whether the then current version of the IECC or ASHRAE Standard 90.1 regarding building energy use, as so revised, if applicable, will improve energy efficiency in buildings; and

"(ii) whether such code, standard, or revision will meet the targets set by the Secretary under paragraph (1).

The Secretary shall make a final determination not later than 6 months after the date of such preliminary determination.

"(B) If the Secretary makes a determination under subparagraph (A)(ii) that a code or standard, or portion of a code or standard, does not meet the

targets set under paragraph (1), or if a national model building energy code or standard is not updated for more than 3 years, then the Secretary shall, within 12 months after such determination or such failure to update, establish a modified code or standard that meets such targets. Any such modified code or standard—

"(i) shall achieve the maximum level of energy savings that is technologically feasible and life-cycle cost-effective, and on a path to achieving net-zero-energy buildings;

"(ii) shall be based on the latest revision of the IECC or ASHRAE Standard 90.1, but may also consider other model codes or standards; and

"(iii) shall serve as the baseline for the next determination under subparagraph (A)(i).

"(C) The Secretary shall provide the opportunity for public comment on targets, determinations, and modified codes and standards under this subsection, and shall publish notice of targets, determinations, and modified codes and standards under this subsection in the Federal Register.

"(D) If the Secretary establishes a code or standard under subparagraph (B) relating to roofs, the Secretary shall include a requirement, especially in all air-conditioned buildings, for the use of roofing materials that demonstrate—

"(i) on residential single family homes and other buildings with slanted roofs—

"(I) for fiberglass asphalt-shingle roofing, an initial solar reflectance of 0.3 or higher; and

"(II) for all other roofing materials, an initial solar reflectance of 0.4 or higher; and

"(ii) on commercial buildings and all buildings with flat roofs, roofing materials with—

"(I) an initial solar reflectance of 0.7 or higher;

"(II) a solar reflectance value 3 years after installation ('h' solar reflectance) of 0.55 or higher; and

"(III) a thermal emittance of 0.8 or higher.

Any national model building energy code or standard established after January 1, 2016, shall include the requirements specified in this subparagraph.

"(b) STATE CERTIFICATION OF BUILDING ENERGY CODE UPDATES.—(1) Not later than 12 months after the date of enactment of the American Clean Energy and Security Act of 2009, subject to the provisions of this section, each State shall certify to the Secretary that it has reviewed and updated the provisions of its residential and commercial building codes regarding energy efficiency. Such certification shall include a demonstration that such State's code provisions meet or exceed the 2009 IECC for residential buildings and the ASHRAE Standard 90.1-2007 for commercial buildings, or achieve equivalent or greater energy savings.

"(2) (A) Not later than 12 months after the Secretary makes an affirmative determination under subsection (a)(2)(A)(i) or establishes a modified code or standard under subsection (a)(2)(B), each State shall certify to the Secretary that it has reviewed and updated the provisions of its building code regarding energy efficiency. Such certification shall include a demonstration that such State's code provisions meet or exceed the revised code or standard, or achieve equivalent or greater energy savings.

"(B) If the Secretary fails to make the determinations under subsection (a)(2)(A)(i) and (ii) by the date specified in subsection (a)(2)(A), or fails to establish a modified code or standard by the date specified in subsection (a)(2)(B), each State shall within 18 months after the specified date certify that it has reviewed the revised code or standard described in subsection (a)(2)(A), and updated the provisions of its building code regarding energy efficiency to meet or exceed any provisions found to improve energy efficiency in buildings, or to achieve equivalent or greater energy savings in other ways.

"(c) STATE CERTIFICATION OF COMPLIANCE WITH BUILDING CODES.—(1) Each State shall, not later than 2 years after any certification under subsection (b), certify that it has—

"(A) achieved compliance under paragraph (3) with the certified State building energy code or with the associated model code or standard; or

"(B) made significant progress under paragraph (4) toward achieving compliance with the certified State building energy code or with the associated model code or standard.

If the State does not certify under subparagraph (A) that is has achieved compliance, the State shall repeat the certification under this paragraph each year until it certifies that it has achieved compliance.

"(2) A certification under paragraph (1) shall include documentation of the rate of compliance based on independent inspections of a random sample of the new and renovated buildings covered by the code or standard in the preceding year, or based on an alternative method that yields an accurate measure of compliance.

"(3) (A) A State shall be considered to achieve compliance under paragraph (1)(A) if—

"(i) at least 90 percent of new and renovated building space covered by the code or standard in the preceding year substantially meets all the requirements of the code or standard regarding energy efficiency, or achieves an equivalent energy savings level; or

"(ii) the estimated excess energy use of new and renovated buildings that did not meet the code or standard in the preceding year, compared to a baseline of comparable buildings that meet the code or standard, is not more than 5 percent of the estimated energy use of all new and renovated buildings covered by the code or standard in the preceding year.

"(B) Only renovations with building permits are covered under this paragraph. If the Secretary determines the percentage targets under subparagraph (A) are not reasonably achievable for renovated residential or commercial buildings, the Secretary may reduce the targets for such renovated buildings to the highest achievable level.

"(4) (A) A State shall be considered to have made significant progress toward achieving compliance for purposes of paragraph (1)(B) if the State has developed and is implementing a plan for achieving compliance within 6 years after the date the State was required to make a certification under paragraph (1), including training and enforcement programs and—

"(i) after 1 or more years of adequate funding, after the date the State was required to make a certification under paragraph (1), has demonstrated progress, in conformance with such plan, toward compliance;

"(ii) after 4 or more years of adequate funding, after the date the State was required to make a certification under paragraph (1),meets the requirement in paragraph (3), substituting 80 percent for 90 percent or substituting 10 percent for 5 percent; or

"(iii) has not had more than 6 years of adequate funding, after the date the State was required to make a certification under paragraph (1).

"(B) Funding shall be considered adequate, for purposes of this paragraph, when the Federal Government provides to States in the aggregate at least [amount to be determined] in a year in funding and support for development and implementation of State building energy codes, including for training and enforcement.

"(d) FAILURE TO MEET DEADLINES.—(1) A State that has not made a certification required under subsection (b) or (c) by the applicable deadline shall submit to the Secretary—

"(A) a report on the status of the State with respect to meeting the requirements and submitting the certification; and

"(B) a plan for meeting the requirements and submitting the certification.

"(2) Any State from which the Secretary has not received a certification by a deadline under subsection (b) or (c) of this section is out of compliance with this section.

"(3) In any State that is out of compliance with this section, a local government may be in compliance with this section by meeting the certification requirements under subsections (b) and (c) of this section, not later than 1 year after the deadline for the State meeting those requirements.

"(4) The Secretary shall annually submit to Congress, and publish in the Federal Register, a report on the status of national model building energy codes and standards, the status of code and standard adoption and compliance in the States, and implementation of this section. The report shall include estimates of impacts of past action under this section and projected impacts of future action on lifetime energy use by buildings and resulting energy costs.

"(e) TECHNICAL ASSISTANCE.—(1) The Secretary shall on a timely basis provide technical assistance to building energy efficiency model code-setting and standard development organizations. This assistance shall include technical assistance as requested by the organizations in evaluating code or standards proposals or revisions, building energy analysis and design tools, building demonstrations, and design assistance and training. The Secretary shall submit code and standard amendment proposals, with supporting evidence, sufficient to enable the national model building energy codes and standards to meet the targets in subsection (a)(1).

"(2) The Secretary shall support the development of voluntary advanced model codes and standards for residential and commercial buildings, for potential use as national model building energy codes and standards, that achieve energy savings of at least 30 percent compared to the national model building energy codes and standards in effect at that time. Such advanced codes and standards may include elements that address green building design, voluntary and market transformation programs, incentive criteria, and voluntary adoption by States. In providing support under this paragraph, the Secretary shall give preference to voluntary model codes and standards developed by the International Code Council and by ASHRAE.

"(3) The Secretary shall provide technical assistance to States—

> "(A) to implement the requirements of this section, including procedures for States to demonstrate that their code provisions achieve equivalent or greater energy savings than the national model codes and standards and to document rates

of compliance, and to improve and implement State residential and commercial building energy efficiency codes; or

"(B) to otherwise promote the design and construction of energy efficient buildings.

"(f) AVAILABILITY OF INCENTIVE FUNDING.—(1) The Secretary shall provide incentive funding to States to implement the requirements of this section, and to improve and implement State residential and commercial building energy efficiency codes, including increasing and verifying compliance with such codes. In determining whether, and in what amount, to provide incentive funding under this subsection, the Secretary shall consider the actions proposed by the State to implement the requirements of this section.

"(2) Additional funding shall be provided under this subsection for implementation of a plan to achieve compliance under subsection (c)—

"(A) to a State that has adopted residential and commercial building energy efficiency codes on a Statewide basis that meet the requirements of subsections (b) and (c); or

"(B) in a State that does not meet the criteria in subparagraph (A), to a local government that has adopted and is implementing residential and commercial building energy efficiency codes as described in subparagraph (A).

"(3) Of the amounts made available under this subsection, the Secretary may use amounts required, not exceeding $500,000 for each State, to train State and local officials to implement codes described in paragraph (2).

"(4) There are authorized to be appropriated to the Secretary of Energy to carry out this section such sums as are necessary for fiscal year 2010 and each fiscal year thereafter.

"(g) DEFINITION.—In this section, the term 'national model building energy codes and standards' means codes and standards—

"(1) with respect to which the Secretary has made an affirmative determination under subsection (a)(2)(A)(i) and (ii); or

"(2) established by the Secretary under subsection (a)(2)(B).".

(b) DEFINITION.—Section 303 of the Energy Conservation and Production Act (42 U.S.C. 6832) is amended by adding at the end the following new paragraph:

"(17) The term 'IECC' means the International Energy Conservation Code.".

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

(1) PERFORMANCE-BASED BUILDING RETROFIT PROGRAM.—The term "performance-based building retrofit program" means a program that determines success in energy efficiency based on actual measured savings after a retrofit is complete.

(2) PRESCRIPTIVE BUILDING RETROFIT PROGRAM.—The term "prescriptive building retrofit program" means a program that projects success in energy efficiency based on the known effectiveness of measures prescribed to be included in a retrofit.

(3) STATE ENERGY PROGRAM.—The term "State Energy Program" means the program under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.)

(b) ESTABLISHMENT.—The Administrator shall develop and implement, in consultation with the Secretary of Energy, standards for a national energy and environmental building retrofit policy for single-family and multifamily residences. The Secretary of Energy shall develop and implement, in consultation with the Administrator, standards for a national energy and environmental building retrofit policy for commercial buildings. The programs to implement the residential and commercial policies based on the standards developed under this section shall together be known as the Retrofit for Energy and Environmental Performance (REEP) program.

(c) PROGRAM DESIGN.—

(1) PURPOSE.—The purpose of the REEP program is to facilitate the retrofitting of existing buildings across the United States to achieve maximum cost-effective energy efficiency improvements and significant improvements in water use and other environmental attributes.

(2) FEDERAL RESOURCES.—The REEP program shall utilize Federal personnel and resources as needed for development, design, program materials, administration, seed capital, and other activities and support.

(3) ASSISTANCE TO STATES.—The REEP program shall provide Federal financial assistance to States, for deposit in their State Energy and Environment Development Fund, to be administered through the State Energy Program, for management and the accomplishment of the program's objectives at the individual building level, through local agencies as appropriate, in accordance with standards and requirements established under this section.

(4) STATE AND LOCAL ASSISTANCE.—State and local agencies may offer free or low-cost building audits, incentives, technical assistance, training, incentive financing, and other forms of assistance to individual building owners under the standards and guidelines developed for the REEP program in accordance with this section, as well as promotion and management of the REEP program.

(5) STRUCTURE OF PROGRAM OPERATIONS.—State and local agencies shall have broad flexibility in the structure of REEP program operations and in the choice of retrofit agencies or contractors.

(d) FEDERAL ADMINISTRATION.—

(1) EXISTING PROGRAMS.— In creating and operating the residential REEP program—

(A) the Administrator shall make appropriate use of existing programs, including the Energy Star program and in particular the Environmental Protection Agency Energy Star for Buildings program; and

(B) the Secretary of Energy shall make appropriate use of existing programs, including delegating authority to the Director of Commercial High-Performance Green Buildings appointed under section 421 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17081), who shall designate and provide funding to support a High-Performance Green Building Partnership Consortium pursuant to such section to support efforts under this Act.

(2) CONSULTATION AND COORDINATION.—The Administrator and the Secretary of Energy shall consult with and coordinate with the Secretary of Housing and Urban Development in carrying out the REEP program.

(3) ADMINISTRATION OF FUNDING.—The Secretary of Energy shall administer the financing for the REEP program, providing funds to and administration through State Energy Offices under the State Energy Program, or through such existing State offices or entities regulated by the State that the Governor of the State designates to carry out the purposes of this Act. The Secretary shall ensure accountability for funds dispensed, including measurement and verification of energy, water, and environmental savings achieved.

(4) ASSISTANCE.—The Administrator and the Secretary of Energy shall provide consultation and assistance to State and local agencies for the establishment of revolving loan funds or other forms of financial assistance under this section.

(e) STATE AND LOCAL ADMINISTRATION.—

(1) DELEGATION.—The State Energy Office or designated State agency described in subsection (d)(3) may delegate performance of appropriate elements of the REEP program, upon their request and subject to State law, to

counties, municipalities, appropriate public agencies, and other divisions of local government, as well as to entities regulated by the State. The State shall ensure accountability for expended funds provided under this section, and shall maintain responsibility for meeting the standards and requirements of the REEP program.

(2) EMPLOYMENT.—States and local government entities may employ public or regulated investor-owned utilities, building auditors and inspectors, contractors, nonprofit organizations, and other entities to perform audits and retrofit services under this section.

(f) ELEMENTS OF REEP PROGRAM.—The elements of the REEP program shall include the following:

(1) The Administrator and the Secretary of Energy shall establish goals and standards for accomplishing the purpose stated in subsection (c)(1), and shall annually review and, as appropriate, revise such goals and standards.

(2) Residential Energy Services Network (RESNET) certification of building energy and environment auditors, inspectors, and raters, or an equivalent certification system as determined by the Administrator.

(3) Building Performance Institute (BPI) certification or licensing by States of building energy and environmental retrofit contractors, or an equivalent certification or licensing system as determined by the Administrator.

(4) Building Performance Institute, Residential Energy Services Network, or other appropriate information on equipment and procedures, as determined by the Administrator, that contractors can use to test the energy and environmental efficiency of buildings effectively (such as infrared photography and pressurized testing, and tests for water use and indoor air quality).

(5) Provision of clear and effective materials to describe the testing and retrofit processes for typical buildings.

(6) Suggested guidelines for offering and managing prescriptive building retrofit programs and performance-based building retrofit programs for residential and commercial buildings.

(7) Suggested guidelines for applying retrocommissioning principles to improve a building's operations and maintenance procedures.

(8) Determination of energy savings in a performance-based building retrofit program through—

(A) for residential buildings, comparison of before and after retrofit scores on the Home Energy Rating System (HERS) Index, where the final score is produced by an objective third party;

(B) for commercial buildings, Environmental Protection Agency Portfolio Manager benchmarks; or

(C) for either residential or commercial buildings, use of an Administrator-approved simulation program, subject to appropriate software standards and verification of at least 15 percent of all work done.

(9) Suggested guidelines for utilizing the Energy Star Portfolio Manager, the Home Energy Rating System (HERS) rating system, Home Performance with Energy Star program approvals, and any other tools associated with the retrofit program.

(10) Requirements and guidelines for post-retrofit inspection and confirmation of work and energy savings.

(11) Detailed descriptions of funding options for the benefit of State and local governments, along with model forms, accounting aids, agreements, and guides to best practices.

(12) Guidelines for obtaining certification of buildings after retrofit as Energy Star buildings, assigning Home Energy

Rating System (HERS) rating, and completing applicable building performance labels.

(13) Sample materials for publicizing the program to building owners, including public service announcements and advertisements.

(14) Processes for tracking the numbers and locations of buildings retrofitted under the REEP program, with information on projected and actual savings of energy and its value over time.

(15) A requirement that building retrofits conducted pursuant to a REEP program shall use roofing materials that demonstrate—

(A) on residential single family homes and other buildings with slanted roofs—

(i) for fiberglass asphalt-shingle roofing, an initial solar reflectance of 0.3 or higher; or

(ii) for all other roofing materials, an initial solar reflectance of 0.4 or higher; and

(B) on commercial buildings and all buildings with flat roofs, roofing materials with—

(i) an initial solar reflectance of 0.7 or higher;

(ii) a solar reflectance value 3 years after installation ("h" solar reflectance) of 0.55 or higher; and

(iii) a thermal emittance of 0.8 or higher.

(g) REQUIREMENTS.—As a condition of receiving funding for the REEP program appropriated pursuant to this section, a State shall—

(1) adopt the standards for training, certification of contractors, certification of buildings, and post-retrofit

inspection as developed by the Administrator and the Secretary of Energy for residential and commercial buildings, respectively, except as necessary to match local conditions, needs, efficiency opportunities, or other local factors, or to accord with State laws or regulations, and then only after the Administrator or the Secretary of Energy, as appropriate, approves such a variance; and

(2) establish fiscal controls and accounting procedures (which conform to generally accepted government accounting principles) sufficient to ensure proper accounting during appropriate accounting periods for payments received and disbursements, and for fund balances.

The Secretary of Energy shall conduct or require each State to have such independent financial audits of REEP-related funding as the Secretary of Energy considers necessary or appropriate to carry out the purposes of this section.

(h) FINANCIAL OPTIONS TO SUPPORT REEP PROGRAM.—The Secretary of Energy and the Administrator shall support the implementation through State REEP programs of alternate means of creating incentives for, or reducing financial barriers to, improved energy and environmental performance in buildings, consistent with this section, including—

(1) implementing prescriptive building retrofit programs and performance-based building retrofit programs;

(2) providing credit enhancement, interest rate subsidies, or other credit support;

(3) providing initial capital for public revolving fund financing of retrofits, with repayments by beneficiary building owners over time through their tax payments, calibrated to create net positive cash flow to the building owner;

(4) providing funds to support utility-operated retrofit programs with repayments over time through utility rates, calibrated to create net positive cash flow to the building owner, and transferable from one building owner to the next with the building's utility services; and

(5) other means proposed by State and local agencies, subject to the approval of the Secretary of Energy.

(i) FEDERAL FINANCIAL SUPPORT.—

(1) IN GENERAL.—Financial support shall be provided to a State Energy Program, for the specific purpose of supporting the REEP program. The Secretary and the Administrator may vary or adjust the specific amounts provided pursuant to paragraph (3) in years subsequent to the first year after the date of enactment of this Act as they determine necessary to achieve optimum cost-effectiveness and to maximize incentives to achieve energy efficiency within the total building award amounts provided in that paragraph.

(2) ALLOCATION OF FUNDING.—

(A) INITIAL YEAR.—The Secretary of Energy shall allocate amounts appropriated during the initial year of the REEP program among the States in accordance with the State Energy Program formula under section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6323).

(B) SUBSEQUENT YEARS.—In the second year of the REEP program and thereafter, the Secretary of Energy shall allocate amounts among the States as follows:

(i) ½ of available or appropriated funds shall be allocated among the States in accordance with the State Energy Program formula described in subparagraph (A).

(ii) ½ of available or appropriated funds shall be allocated among the States in accordance with the relative building energy efficiency and environmental performance of the various States in retrofitting buildings in accordance with this section during the preceding year, with higher allocations going to States showing greater

success in improving energy and environmental performance of the buildings retrofitted in that State during that preceding year.

(3) FORMS OF SUPPORT.—State and local REEP programs may make per-building direct expenditures for retrofit improvements, or their equivalent in indirect financial support, from Federal funds as follows:

(A) RESIDENTIAL PROGRAM.—

(i) AWARDS.—For residential buildings, a program may provide—

(I) up to $500 to support a free or low-cost detailed building energy audit that prescribes energy-reducing measures, with such amount fully recoverable from the recipient if the prescribed measures are not performed, within 1 year after completion of the audit, sufficiently to enable the building to achieve at least a 20 percent reduction in energy use;

(II) a total of $1,000 for measures, prescribed in an audit conducted under subclause (I), designed to reduce energy consumption by more than 10 percent, and $2,000 for measures prescribed in such an audit, designed to reduce energy consumption by more than 20 percent;

(III) $3,000 for demonstrated savings of 20 percent, pursuant to a performance-based building retrofit program; and

(IV) $150 for each additional percentage point of energy savings achieved beyond savings for which funding is provided under subclause (II) or (III).

Funding shall not be provided under clauses (II) and (III) for the same energy savings.

(ii) MAXIMUM PERCENTAGE.—Awards under clause (i) shall not to exceed 50 percent of retrofit costs for each building.

(iii) ADDITIONAL AWARDS.—Additional awards may be provided, for buildings achieving at least 20 percent energy savings using funding provided under clause (i), as follows:

(I) WATER.—Grants of $600 may be made for measures projected or measured (using an appropriate method approved by the Administrator) to achieve at least 35 percent potable water savings through equipment or systems with an estimated service life of not less than seven years, and an additional $20 may be provided for each additional one percent of such savings, up to a maximum total grant of $1,200.

(II) RENEWABLE ENERGY USE.—For cost-effective use of renewable energy, an award of up to $2,000 may be provided for uses with respect to which Federal tax credits are not available, and the Administrator shall develop relevant standards for documenting compliance.

(B) COMMERCIAL PROGRAM.—

(i) AWARDS.—For commercial buildings, a program may provide—

(I) $1,000 to support a free or low-cost building audit of energy-reduction potential that prescribes energy efficiency improvements and improvements of other building attributes, with such amount fully recoverable from the recipient if the prescribed improvements are not performed, within 1 year after completion of the audit, sufficiently to enable the building to achieve at least a 20 percent reduction in energy use;

(II) $0.15 per square foot of retrofit area for demonstrated energy use reductions from 20 percent to 30 percent;

(III) $0.75 per square foot for demonstrated energy use reductions from 30 percent to 40 percent;

(IV) $1.60 per square foot for demonstrated energy use reductions from 40 percent to 50 percent; and

(V) $2.50 per square foot for demonstrated energy use reductions exceeding 50 percent.

(ii) LIMITATION.—Amounts provided under subclauses (II) through (V) of clause (i) combined shall not exceed 50 percent of the total retrofit cost of a building.

(iii) ADDITIONAL AWARDS.—Additional awards may be provided, for buildings achieving at least 20 percent energy savings using funding provided under clause (i), as follows:

(I) WATER.—Grants may be made for whole building potable water use reduction (using an appropriate method approved by the Secretary of Energy) for up to 50 percent of the total retrofit cost, including amounts up to—

(aa) $24.00 per thousand gallons per year of potable water savings of 40 percent or more;

(bb) $27.00 per thousand gallons per year of potable water savings of 50 percent or more; and

(cc) $30.00 per thousand gallons per year of potable water savings of 60 percent or more.

(II) RENEWABLE ENERGY USE.—For cost-effective use of renewable energy, an award of up to $10,000 may be provided for uses with respect to which Federal tax credits are not available, and the Secretary of Energy shall develop relevant standards for documenting compliance.

(III) ENVIRONMENTAL IMPROVEMENTS.—For other environmental improvements relating to—

(aa) indoor air quality;

(bb) natural lighting;

(cc) use of renewable materials; and

(dd) any other such improvements, as determined by the Secretary of Energy, that do not

result in a decrease in energy efficiency,

an award of up to $1,000 for improvem

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(C) HISTORIC BUILDINGS.—Notwithstanding subparagraphs (A) and (B), a building in or eligible for the National Register of Historic Places shall be eligible for awards under this paragraph in amounts up to 120 percent of the amounts set forth in subparagraphs (A) and (B).

(D) SUPPLEMENTAL SUPPORT.—State and local governments may supplement the per-building expenditures under this paragraph with funding from other sources.

(j) SOURCES OF FEDERAL FUNDS.—

(1) ADDITIONAL STATE ENERGY PROGRAM FUNDS.—Any appropriated funding provided to a State Energy Program that is not specifically required to be expended for a different federally designated purpose may be used to support a REEP program.

(2) PROGRAM ADMINISTRATION.—State Energy Offices or designated State agencies may expend up to 10 percent of funding provided under this section for program administration.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of this section, for each of fiscal years 2010, 2011, 2012, and 2013—

(A) such sums as may be necessary to the Secretary of Energy for distribution to State Energy Offices and other designated State agencies in accordance with this section;

(B) such sums as may be necessary to the Administrator for program administration costs;

(C) such sums as may be necessary to the Secretary of Energy for program administration costs; and

(D) such sums as may be necessary to the Secretary of Housing and Urban Development for program administration costs.

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(a) DEFINITIONS.—In this section:

(1) MANUFACTURED HOME.—The term "manufactured home" has the meaning given such term in section 603 of the

National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402).

(2) ENERGY STAR QUALIFIED MANUFACTURED HOME.—The term "Energy Star qualified manufactured home" means a manufactured home that has been designed, produced, and installed in accordance with Energy Star's guidelines by an Energy Star certified plant.

(b) PURPOSE.—The purpose of this section is to assist low-income households residing in manufactured homes constructed prior to 1976 to save energy and energy expenditures by providing support toward the purchase of new Energy Star qualified manufactured homes.

(c) GRANTS TO STATE AGENCIES.—

(1) GRANTS.—The Secretary of Energy may make grants to State agencies responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) (or such other existing State agency that exercises similar functions as the Governor of a State may designate), to provide owners of manufactured homes constructed prior to 1976 rebates to use toward purchases of new Energy Star qualified manufactured homes.

(2) ALLOCATION OF GRANTS.—Grants under paragraph (1) shall be distributed to State agencies in States on the basis of their proportionate share of all manufactured homes constructed prior to 1976 that are occupied as primary residences in the United States, based on the most recent and accurate data available.

(3) REBATES.—

(A) PRIMARY RESIDENCE REQUIREMENT.—A rebate described under paragraph (1) may only be made to an owner of a manufactured home constructed prior to 1976 that is used on a year-round basis as a primary residence.

(B) DESTRUCTION AND REPLACEMENT.—A rebate described under paragraph (1) may be made only if the manufactured home constructed prior to 1976 will be—

(i) destroyed (including appropriate recycling); and

(ii) replaced, in the same general location, as determined by the applicable State agency, with an Energy Star qualified manufactured home.

(C) SINGLE REBATE.—A rebate described under paragraph (1) may not be provided to any owner of a manufactured home constructed prior to 1976 that was or is a member of a household for which any member of the household was provided a rebate pursuant to this section.

(D) ELIGIBLE HOUSEHOLDS.—To be eligible to receive a rebate described under paragraph (1), an owner of a manufactured home constructed prior to 1976 shall demonstrate to the applicable State agency that the total income of all members the owner's household does not exceed 200 percent of the Federal poverty level for income in the applicable area.

(4) REBATE LIMITATION.—Rebates provided by State agencies under this section shall not exceed $7,500 per manufactured home from any funds appropriated pursuant to this section.

(5) USE OF STATE FUNDS.—A State agency providing rebates under this section may supplement the amount of such rebates under paragraph (4) by any amount such agency approves if such additional amount is from State funds and other sources, including private donations or grants from charitable foundations.

(6) SIMILAR PROGRAMS.—

(A) STATE PROGRAMS.—A State agency conducting a program that has the purpose of replacing manufactured homes constructed prior to 1976 with Energy Star qualified manufactured homes, may use funding provided under this section to support such a program, provided such funding does not exceed the rebate limitation amount under paragraph (4).

(B) FEDERAL PROGRAMS.—The Secretary of Energy shall seek to achieve the purpose of this section through similar Federal programs including—

(i) the Weatherization Assistance Program under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.); and

(ii) the program under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

(7) ADMINISTRATION.—

(A) CONTROLS AND PROCEDURES.—Each State agency receiving funding under this section shall establish fiscal controls and accounting procedures sufficient, as determined by the Secretary of Energy, to ensure proper accounting for disbursements made from such funds and fund balances. Such procedures shall conform to generally accepted government accounting principles.

(B) COORDINATION WITH OTHER STATE AGENCIES.—A State agency receiving funding under this section may coordinate its efforts, and share funds for administration, with other State agencies involved in low-income housing programs.

(C) ADMINISTRATIVE EXPENSES.—A State agency receiving funding under this section may expend not

more than 10 percent of such funds for administrative expenses.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Energy such sums as may be necessary to carry out this section.

(2) ADMINISTRATIVE EXPENSES.—Of the amounts available each fiscal year to carry out this section, the Secretary of Energy may expend not more than 5 percent to pay administrative expenses.

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(a) ESTABLISHMENT.—

(1) PURPOSE.—The Administrator shall establish a building energy performance labeling program with broad applicability to the residential and commercial markets to enable and encourage knowledge about building energy performance by owners and occupants and to inform efforts to reduce energy consumption nationwide.

(2) COMPONENTS.—In developing such program, the Administrator shall—

(A) consider existing programs, such as Environmental Protection Agency's Energy Star program, the Home Energy Rating System (HERS) Index, and Federal programs at the Department of Energy;

(B) support the development of model performance labels for residential and commercial buildings; and

(C) utilize incentives and other means to spur use of energy performance labeling by public and private sector buildings nationwide.

(b) DATA ASSESSMENT FOR BUILDING ENERGY PERFORMANCE.—

(1) INITIAL REPORT.—Not later than 90 days after the date of enactment of this Act, the Administrator shall provide to Congress, as well as to the Secretary of Energy and the Office of Management and Budget, a report identifying—

(A) all principal building types for which statistically significant energy performance data exists to serve as the basis of measurement protocols and labeling requirements for achieved building energy performance; and

(B) those building types for which additional data is required to enable the development of such protocols and requirements.

(2) ADDITIONAL REPORTS.—Additional updated reports shall be provided as often as considered practicable by the Administrator, but not less than every 2 years.

(c) BUILDING DATA ACQUISITION.—

(1) RESOURCE REQUIREMENTS.—For all principal building types identified under subsection (b), the Secretary of Energy, not later than 90 days after a report by the Administrator under subsection (b), shall provide to Congress, the Administrator, and the Office of Management and Budget a statement of additional resources needed, if any, to fully develop the relevant data, as well as the anticipated timeline for data development.

(2) CONSULTATION.—The Secretary of Energy shall consult with the Administrator concerning the ability to use data series for these additional building types to support the achieved performance component in the labeling program.

(3) IMPROVEMENTS TO BUILDING ENERGY CONSUMPTION DATABASES.—

(A) COMMERCIAL DATABASE.—The Secretary of Energy shall support improvements to the Commercial Buildings Energy Consumption Survey (CBECS) as authorized by section 205(k) of the Department of Energy Organization Act (42 U.S.C. 7135(k))—

(i) to enable complete and robust data for the actual energy performance of principal building types currently covered by survey;

(ii) to cover additional building types as identified by the Administrator, such that achieved performance measurement protocols are developed for at least 90 percent of all major commercial building types within 5 years; and

(iii) to include third-party audits of random data samplings to ensure the quality and accuracy of survey information.

(B) RESIDENTIAL DATABASES.—The Administrator, in consultation with the Energy Information Administration and the Secretary of Energy, shall support improvements to the Residential Energy Consumption Survey (RECS) as authorized by section 205(k) of the Department of Energy Organization Act (42 U.S.C. 7135(k)), or such other residential energy performance databases as the Administrator considers appropriate, to aid the development of achieved performance measurement protocols for residential building energy use for at least 90 percent of the residential market within 5 years.

(C) CONSULTATION.—The Secretary of Energy and the Administrator shall consult with public, private, and nonprofit sector representatives from the building industry and real estate industry to assist in the

evaluation and improvement of building energy performance databases and labeling programs.

(d) IDENTIFICATION OF MEASUREMENT PROTOCOLS FOR ACHIEVED PERFORMANCE.—

(1) PROPOSED PROTOCOLS AND REQUIREMENTS.—At the earliest practicable date, but not later than 1 year after identifying a building type under subsection (b)(1)(A), the Administrator shall propose a measurement protocol for that building type and a requirement detailing how to use that protocol in completing applicable commercial or residential performance labels created pursuant to this section.

(2) FINAL RULE.—After providing for appropriate notice and comment, the Administrator shall publish a final rule containing a measurement protocol and the corresponding requirements for applying that protocol. Such a rule—

(A) shall define the minimum period for measurement of energy use by buildings of that type and other details for determining achieved performance, to include leased buildings or parts thereof;

(B) shall identify necessary data collection and record retention requirements; and

(C) may specify transition rules and exemptions for classes of buildings within the building type.

(e) PROCEDURES FOR EVALUATING DESIGNED PERFORMANCE.—The Administrator shall develop procedures for evaluating the designed performance of individual building types. The Administrator may conduct such feasibility studies and demonstration projects as are necessary to evaluate the sufficiency of proposed protocols for designed performance.

(f) CREATION OF BUILDING ENERGY PERFORMANCE LABELING PROGRAM.—

(1) MODEL LABEL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall propose a model building energy label that provides a format—

(A) to display achieved performance and designed performance data;

(B) that may be tailored for residential and commercial buildings, and for single-occupancy and multitenanted buildings; and

(C) to display other appropriate elements identified during the development of measurement protocols under subsections (d) and (e).

(2) INCLUSIONS.—Nothing in this section shall require the inclusion on such a label of designed performance data where impracticable or not cost effective, or to preclude the display of both achieved performance and designed performance data for a particular building where both such measures are available, practicable, and cost effective.

(3) EXISTING PROGRAMS.—In developing the model label, the Administrator shall consider existing programs, including—

(A) the Environmental Protection Agency's Energy Star Portfolio Manager program and the California HERS II program Custom Approach for the achieved performance component of the label;

(B) the Home Energy Rating System (HERS) Index system for the designed performance component of the label; and

(C) other Federal and State programs, including the Department of Energy's related programs on building technologies and those of the Federal Energy Management Program.

(4) FINAL RULE.—After providing for appropriate notice and comment, the Administrator shall publish a final rule containing the label applicable to covered building types.

(g) DEMONSTRATION PROJECTS FOR LABELING PROGRAM.—

(1) IN GENERAL.—The Administrator shall conduct building energy performance labeling demonstration projects for different building types—

(A) to ensure the sufficiency of the current Commercial Buildings Energy Consumption Survey and other data to serve as the basis for new measurement protocols for the achieved performance component of the building energy performance labeling program;

(B) to inform the development of measurement protocols for building types not currently covered by the Commercial Buildings Energy Consumption Survey; and

(C) to identify any additional criteria needed to ensure effective use of the model label.

(2) PARTICIPATION.—Such demonstration projects shall include participation of—

(A) buildings from diverse geographical and climate regions;

(B) buildings in both urban and rural areas;

(C) single-family residential buildings;

(D) multihousing residential buildings with more than 50 units, including at least one project that provides affordable housing to individuals of diverse incomes;

(E) single-occupant commercial buildings larger than 30,000 square feet;

(F) multitenanted commercial buildings larger than 50,000 square feet; and

(G) buildings from both the public and private sectors.

(3) PRIORITY.—Priority in the selection of demonstration projects shall be given to projects that facilitate large-scale implementation of the labeling program for samples of buildings across neighborhoods, geographic regions, cities, or States.

(4) FINDINGS.—The Administrator shall report any findings from demonstration projects under this subsection, including an identification of any areas of needed data improvement, to the Department of Energy's Energy Information Administration and Building Technologies Program.

(5) COORDINATION.—The Administrator and the Secretary of Energy shall coordinate demonstration projects undertaken pursuant to this subsection with those undertaken as part of the Zero-Net-Energy Commercial Buildings Initiative adopted under section 422 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17082).

(h) IMPLEMENTATION OF LABELING PROGRAM.—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary of Energy, shall work with all State Energy Offices established pursuant to part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.) or other State authorities as necessary for the purpose of implementing the labeling program established under this section for commercial and residential buildings.

(2) OUTREACH TO LOCAL AUTHORITIES.—The Administrator shall, acting in consultation and coordination with the respective States, encourage use of the labeling program by counties and other localities to broaden access to information about building energy use, for example, through

disclosure of building label contents in tax, title, and other records those localities maintain. For this purpose, the Administrator shall develop an electronic version of the label and information that can be readily transmitted and read in widely-available computer programs but is protected from unauthorized manipulation.

(3) MEANS OF IMPLEMENTATION.—In adopting the model labeling program established under this section, a State shall require that labeled information be made accessible to new and prospective owners, lenders, tenants, occupants, or other relevant parties in such a way that the information is more fully factored into market transactions. Such accessability may be accomplished through—

(A) labeling the building and public disclosure of the label at the time of—

(i) a building audit conducted with support from Federal or State funds;

(ii) a building energy-efficiency retrofit conducted in response to such an audit;

(iii) a final inspection of major renovations or additions made to a building in accordance with a building permit issued by a local government entity;

(iv) a sale that is recorded for title and tax purposes;

(v) a new lien recorded on the property for more than a set percentage of the assessed value of the property if that lien reflects public financial assistance for energy-related improvements to that building; or

(vi) a change in ownership or operation of the building for purposes of utility billing; or

(B) other appropriate means.

(4) DISTRIBUTION OF FUNDS.—

(A) ELIGIBLE STATES.—The Administrator shall distribute funds allocated to the program under this section to States that—

(i) adopt by statute or regulation a requirement that buildings be assessed and labeled, consistent with the labeling requirements of the program established under this section, including a requirement described in paragraph (3); or

(ii) adopt a plan to implement a model labeling program established under this section within 6 months after the establishment of that program and within 3 years after the date of enactment of this Act.

(B) ALLOCATION FORMULA.—The allocation of such funds to States shall be as follows:

(i) ⅓ shall be allocated equally among eligible States.

(ii) ⅔ shall be allocated in proportion to the number of buildings potentially subject to the model labeling program in each State.

(5) GUIDANCE.—The Administrator may create or identify model programs and resources to provide guidance to offer to States and localities for creating labeling programs consistent with the model program established under this section.

(6) PROGRESS REPORT.—The Administrator, in consultation with the Secretary of Energy, shall provide a progress report to Congress not later than 3 years after the date of enactment of this Act that—

(A) evaluates the effectiveness of efforts to advance use of the model labeling program by States and localities;

(B) recommends any legislative changes necessary to broaden the use of the model labeling program; and

(C) identifies any changes to broaden the use of the model labeling program that the Administrator has made or intends to make that do not require additional legislative authority.

(i) IMPLEMENTATION OF LABELING PROGRAM IN FEDERAL BUILDINGS.—

(1) USE OF LABELING PROGRAM.—The Secretary of Energy and the Administrator shall use the labeling program established under this section to evaluate energy performance in the facilities of the Department of Energy and the Environmental Protection Agency, respectively, to the extent practicable, and shall encourage and support implementation efforts in other Federal agencies.

(2) ANNUAL PROGRESS REPORT.—The Secretary of Energy and Administrator shall provide an annual progress report to Congress and the Office of Management and Budget detailing efforts to implement this subsection, as well as any best practices or needed resources identified as a result of such efforts.

(j) PUBLIC OUTREACH.—The Secretary of Energy and the Administrator, in consultation with nonprofit and industry stakeholders with specialized expertise, and in conjunction with other energy efficiency public awareness efforts, shall establish a business and consumer education program to increase awareness about the importance of building energy efficiency and to facilitate widespread use of the labeling program established under this section.

(k) DEFINITIONS.—In this section:

(1) BUILDING TYPE.—The term "building type" means a grouping of buildings as identified by their principal building activities, or as grouped by their use, including office buildings, laboratories, libraries, data centers, retail hotels, warehouses, and educational facilities.

(2) MEASUREMENT PROTOCOL.—The term "measurement protocol" means the methodology, prescribed by the Administrator, for defining a benchmark for building energy performance for a specific building type and for measuring that performance against the benchmark.

(3) ACHIEVED PERFORMANCE.—The term "achieved performance" means the actual energy consumption of a building as compared to a baseline building of the same type and size, determined by actual consumption data normalized for appropriate variables.

(4) DESIGNED PERFORMANCE.—The term "designed performance" means the energy consumption performance a building would achieve if operated consistent with its design intent for building energy use, utilizing a standardized set of operational conditions informed by data collected or confirmed during an energy audit.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) to the Administrator for implementation of this section such sums as may be necessary for each fiscal year; and

(2) to the Secretary of Energy for implementation of this section such sums as may be necessary for each fiscal year.

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(a) OUTDOOR LIGHTING.—

(1) DEFINITIONS.—(A) Section 340(1) of the Energy Policy and Conservation Act (42 U.S.C. 6311(1)) is amended by striking subparagraph (L) and inserting the following:

"(L) Outdoor luminares.

"(M) Outdoor high light output lamps.

"(N) Any other type of industrial equipment which the Secretary classifies as covered equipment under section 341(b).".

(B) Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended by adding at the end the following:

"(25) The term 'luminaire' means a complete lighting unit consisting of a lamp or lamps, together with parts designed to distribute the light, to position and protect such lamps, and to connect such lamps to the power supply.

"(26) The term 'outdoor luminaire' means a luminaire that is listed as suitable for wet locations pursuant to Underwriters Laboratories Inc. standard UL 1598 and is labeled as 'Suitable for Wet Locations' consistent with section 410.4(A) of the National Electrical Code 2005, except for—

"(A) luminaires designed solely for signs that cannot be used in general lighting applications;

"(B) portable luminaires designed for use at theatrical and television performance areas and construction sites;

"(C) luminaires designed for continuous immersion in swimming pools and other water features;

"(D) seasonal luminaires incorporating solely individual lamps rated at 10 watts or less;

"(E) luminaires designed solely to be used in emergency conditions;

"(F) landscape luminaries, with an integrated photoelectric switch or programmable time switch, with a nominal voltage of 15 volts or less; and

"(G) components used for repair of installed luminaries.

"(27) The term 'outdoor high light output lamp' means a lamp that—

"(A) has a rated lumen output not less than 2601 lumens and not greater than 35,000 lumens;

"(B) is capable of being operated at a voltage not less than 110 volts and not greater than 300 volts, or driven at a constant current of 6.6 amperes; and

"(C) is not a Parabolic Aluminized Reflector lamp.

"(28) The term 'outdoor lighting control' means a device incorporated in a luminaire that receives a signal, from either a sensor (such as an occupancy sensor, motion sensor, or daylight sensor) or an input signal (including analog or digital signals communicated through wired or

wireless technology), and can adjust the light level according to the signal.".

(2) STANDARDS.—Section 342 of the Energy Policy and Conservation Act (42 U.S.C. 6313) is amended by adding at the end the following:

"(g) OUTDOOR LUMINAIRES.—

"(1) Each outdoor luminaire manufactured on or after January 1, 2011, shall have—

"(A) a lighting efficiency of at least 50 lumens per watt; and

"(B) a lumen maintenance, calculated as mean rated lumens divided by initial lumens, of at least 0.6.

"(2) Each outdoor luminaire manufactured on or after January 1, 2013, shall have—

"(A) a lighting efficiency of at least 70 lumens per watt; and

"(B) a lumen maintenance, calculated as mean rated lumens divided by initial lumens, of at least 0.6.

"(3) Each outdoor luminaire manufactured on or after January 1, 2015, shall have—

"(A) a lighting efficiency of at least 80 lumens per watt; and

"(B) a lumen maintenance, calculated as mean rated lumens divided by initial lumens, of at least 0.65.

"(4) In addition to the requirements of paragraphs (1) through (3), each outdoor

luminaire manufactured on or after January 1, 2011, shall have the capability of producing at least two different light levels, including 100 percent and 60 percent of full lamp output.

"(5) (A) Not later than January 1, 2017, the Secretary shall issue a final rule amending the applicable standards established in paragraphs (3) and (4) if technologically feasible and economically justified. Such a final rule shall be effective no later than January 1, 2020.

"(B) A final rule issued under subparagraph (A) shall establish efficiency standards at the maximum level that is technically feasible and economically justified, as provided in subsections (o) and (p) of section 325. The Secretary may also, in such rulemaking, amend or discontinue the product exclusions listed in section 340(23)(A) through (G), or amend the lumen maintenance requirements in paragraph (3) if he determines that such amendments are consistent with the purposes of this Act.

"(C) If the Secretary issues a final rule under subparagraph (A) establishing amended standards, the final rule shall provide that the amended standards apply to products manufactured on or after January 1, 2020, or one year after the date on which the final amended standard is published, whichever is later.

"(h) OUTDOOR HIGH LIGHT OUTPUT LAMPS.—Each outdoor high light output lamp manufactured on or after January 1, 2012, shall have a lighting efficiency of at least 45 lumens per watt.".

(3) TEST PROCEDURES.—Section 343(a) of the Energy Policy and Conservation Act (42 U.S.C. 6314(a)) is amended by adding at the end the following:

"(10) OUTDOOR LIGHTING.—

"(A) With respect to outdoor luminaries and outdoor high light output lamps, the test procedures shall be based upon the test procedures specified in Illuminating Engineering Society procedure LM–79 as of March 1, 2009, and/or other appropriate consensus test procedures developed by the Illuminating Engineering Society or other appropriate consensus standards bodies.

"(B) If Illuminating Engineering Society procedure LM–79 is amended, the Secretary shall amend the test procedures established in subparagraph (A) as necessary to be consistent with the amended LM–79 test procedure, unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures under paragraph (2).

"(C) The Secretary may revise the test procedures for outdoor luminaries or outdoor high light output lamps by rule consistent with paragraph (2), and may incorporate as appropriate consensus test procedures developed by the Illuminating Engineering Society or other appropriate consensus standards bodies.".

(4) PREEMPTION.—Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316) is amended by adding at the end the following:

"(i) (1) Except as provided in paragraph (2), section 327 shall apply to outdoor luminaries to the same extent

and in the same manner as the section applies under part B.

"(2) Any State standard that is adopted on or before January 1, 2015, pursuant to a statutory requirement to adopt efficiency standards for reducing outdoor lighting energy use enacted prior to January, 31, 2008, shall not be preempted.".

(b) PORTABLE LIGHTING.—

(1) PORTABLE LIGHT FIXTURES.—

(A) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended by adding at the end the following:

"(67) ART WORK LIGHT FIXTURE.—The term 'art work light fixture' means a light fixture designed only to be mounted directly to an art work and for the purpose of illuminating that art work.

"(68) LED LIGHT ENGINE.—The term 'LED light engine' or 'LED light engine with integral heat sink' means a subsystem of an LED light fixture that—

"(A) includes 1 or more LED components, including—

"(i) an LED driver power source with electrical and mechanical interfaces; and

"(ii) an integral heat sink to provide thermal dissipation; and

"(B) may be designed to accept additional components that provide aesthetic, optical, and environmental control.

"(69) LED LIGHT FIXTURE.—The term 'LED light fixture' means a complete lighting unit consisting of—

"(A) an LED light source with 1 or more LED lamps or LED light engines; and

"(B) parts—

"(i) to distribute the light;

"(ii) to position and protect the light source; and

"(iii) to connect the light source to electrical power.

"(70) LIGHT FIXTURE.—The term 'light fixture' means a product designed to provide light that includes—

"(A) at least 1 lamp socket; and

"(B) parts—

"(i) to distribute the light;

"(ii) position and protect 1 or more lamps; and

"(iii) to connect 1 or more lamps to a power supply.

"(71) PORTABLE LIGHT FIXTURE.—

"(A) IN GENERAL.—The term 'portable light fixture' means a light fixture that has a flexible cord and an attachment plug for connection to a nominal 120-volt circuit that—

"(i) allows the user to relocate the product without any rewiring; and

"(ii) typically can be controlled with a switch located on the product or the power cord of the product.

"(B) EXCLUSIONS.—The term 'portable light fixture' does not include—

"(i) direct plug-in night lights, sun or heat lamps, medical or dental lights, portable electric

hand lamps, signs or commercial advertising displays, photographic lamps, germicidal lamps, or light fixtures for marine use or for use in hazardous locations (as those terms are defined in ANSI/NFPA 70 of the National Electrical Code); or

"(ii) decorative lighting strings, decorative lighting outfits, or electric candles or candelabra without lamp shades that are covered by Underwriter Laboratories (UL) standard 588, 'Seasonal and Holiday Decorative Products'.".

(B) COVERAGE.—

(i) IN GENERAL.—Section 322(a) of the Energy Policy and Conservation Act (42 U.S.C. 6292(a)) is amended—

(I) by redesignating paragraph (20) as paragraph (21); and

(II) by inserting after paragraph (19) the following:

"(20) Portable light fixtures.".

(ii) CONFORMING AMENDMENTS.—Section 325(l) of the Energy Policy and Conservation Act (42 U.S.C. 6295(l)) is amended by striking "paragraph (19)" each place it appears in paragraphs (1) and (2) and inserting "paragraph (21)".

(C) TEST PROCEDURES.—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)) is amended by adding at the end the following:

"(19) LED FIXTURES AND LED LIGHT ENGINES.—Test procedures for LED fixtures and LED light engines shall be based on Illuminating Engineering Society of North America (IESNA) test procedure LM–79, Approved Method for Electrical and Photometric Testing of Solid-State Lighting Devices, and IESNA-approved test procedure for testing LED light engines.".

(D) STANDARDS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended—

(i) by redesignating subsection (ii) as subsection (nn);

(ii) in subsection (nn)(2), as redesignated in clause (i) of this subparagraph, by striking "(hh)" and inserting "(mm)"; and

(iii) by inserting after subsection (hh) the following:

"(ii) PORTABLE LIGHT FIXTURES.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), portable light fixtures manufactured on or after January 1, 2012, shall meet 1 or more of the following requirements:

"(A) Be a fluorescent light fixture that meets the requirements of the Energy Star Program for Residential Light Fixtures, Version 4.2.

"(B) Be equipped with only 1 or more GU–24 line-voltage sockets and not be rated for use with incandescent lamps of any type (as defined in ANSI standards), and meet the requirements of version 4.2 of the Energy Star program for residential light fixtures.

"(C) Be an LED light fixture

or a light fixture with an LED light engine and comply with the following minimum requirements:

"(i) Minimum light output: 200 lumens (initial).

"(ii) Minimum LED light engine efficacy: 40 lumens/watt installed in fixtures that meet the minimum light fixture efficacy of 29 lumens/watt or, alternatively, a minimum LED light engine efficacy of 60 lumens/watt for

fixtures that do not meet the minimum light fixture efficacy of 29 lumens/watt.

"(iii) All portable fixtures shall have a minimum LED light fixture efficacy of 29 lumens/watt and a minimum LED light engine efficacy of 60 lumens/watt by January 1, 2016.

"(iv) Color Correlated Temperature (CCT): 2700K through 4000K.

"(v) Minimum Color Rendering Index (CRI): 75.

"(vi) Power factor equal to or greater than 0.70.

"(vii) Portable luminaries that have internal power supplies shall have zero standby power when the luminaire is turned off.

"(viii) LED light sources shall deliver at least 70 percent of initial lumens for at least

25,000 hours.

"(D) (i) Be equipped with an ANSI-designated E12, E17, or E26 screw-based socket and be prepackaged and sold together with 1 screw-based compact fluorescent lamp or screw-based LED lamp for each screw-based socket on the portable light fixture.

"(ii) The compact fluorescent or LED lamps prepackaged with the light fixture shall be fully compatible with any light fixture controls incorporated into the light fixture (for example, light fixtures with dimmers shall be packed with dimmable lamps).

"(iii) Compact fluorescent lamps prepackaged with light fixtures shall meet the requirements of the Energy Star Program for CFLs Version 4.0.

"(iv) Screw-based LED lamps shall comply with the minimum requirements described in subparagraph (C).

"(E) Be equipped with 1 or more single-ended, non-screw based halogen lamp sockets (line or low voltage), a dimmer control or high-low control, and be rated for a maximum of 100 watts.

"(2) REVIEW.—

"(A) REVIEW.—The Secretary shall review the criteria and standards established under

paragraph (1) to determine if revised standards are technologically feasible and economically justified.

"(B) COMPONENTS.—The review shall include consideration of—

"(i) whether a separate compliance procedure is still needed for halogen fixtures described in subparagraph (E) and, if necessary, what an appropriate standard for halogen fixtures shall be;

"(ii) whether the

specific technical criteria described in subparagraphs (A), (C), and (D)(iii) should be modified; and

"(iii) which fixtures should be exempted from the light fixture efficacy standard as of January 1, 2016, because the fixtures are primarily decorative in nature (as defined by the Secretary) and, even if exempted, are likely to be sold in limited quantities.

"(C) TIMING.—

"(i) DETERMINATION.—Not later than January 1, 2014, the Secretary shall publish amended standards, or a determination that no amended standards are justified, under this subsection.

"(ii) STANDARDS.—Any standards under this paragraph shall take effect on January 1, 2016.

"(3) ART WORK LIGHT FIXTURES.—Art work light fixtures

manufactured on or after January 1, 2012, shall—

"(A) comply with paragraph (1); or

"(B) (i) contain only ANSI-designated E12 screw-based line-voltage sockets;

"(ii) have not more than 3 sockets;

"(iii) be controlled with an integral high/low switch;

"(iv) be rated for not more than 25 watts if fitted with 1 socket; and

"(v) be rated for not more than 15 watts per socket if fitted with 2 or 3 sockets.

"(4) EXCEPTION FROM PREEMPTION.—Notwithstanding section 327, Federal preemption shall not apply to a regulation concerning

portable light fixtures adopted by the California Energy Commission on or before January 1, 2014.".

(2) GU–24 BASE LAMPS.—

(A) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) (as amended by paragraph (1)(A)) is amended by adding at the end the following:

"(72) GU–24.—The term 'GU–24'" means the designation of a lamp socket, based on a coding system by the International Electrotechnical Commission, under which—

"(A) 'G' indicates a holder and socket type with 2 or more projecting contacts, such as pins or posts;

"(B) 'U' distinguishes between lamp and holder designs of similar type that are not interchangeable due to electrical or mechanical requirements; and

"(C) 24 indicates the distance in millimeters between the electrical contact posts.

"(73) GU-24 ADAPTOR.—

"(A) IN GENERAL.—The term 'GU-24 Adaptor' means a

1-piece device, pig-tail, wiring harness, or other such socket or base attachment that—

"(i) connects to a GU-24 socket on 1 end and provides a different type of socket or connection on the other end; and

"(ii) does not alter the voltage.

"(B) EXCLUSION.—The term 'GU-24 Adaptor' does not include a fluorescent ballast with a GU–24 base.

"(74) GU–24 BASE LAMP.—'GU–24 base lamp' means a light bulb designed to fit in a GU–24 socket.".

(B) STANDARDS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) (as amended by paragraph (1)(D)) is amended by inserting after subsection (ii) the following:

"(jj) GU–24 BASE LAMPS.—

"(1) IN GENERAL.—A GU–24 base lamp shall not be an incandescent lamp as defined by ANSI.

"(2) GU-24 ADAPTORS.—GU–24 adaptors shall not adapt a GU–24 socket to any other line voltage socket.".

(3) STANDARDS FOR CERTAIN INCANDESCENT REFLECTOR LAMPS.—Section 325(i) of the Energy Policy and Conservation Act (42 U.S.C. 6293(i)) is amended by adding at the end the following new paragraphs:

"(9) STANDARDS FOR CERTAIN INCANDESCENT REFLECTOR LAMPS.—(A) No later than 12 months after enactment of this paragraph, the Secretary shall publish a final rule establishing standards for incandescent reflector lamp types specified in paragraph (1)(C) of this subsection. Such standards shall be effective 2 years after publication of the final rule.

"(B) If the Secretary fails to issue a final rule before the deadline specified in (i), then, effective three years from the date of enactment of this paragraph, the minimum standard for lamp types specified in 325(i)(1)(C) shall be the same as the standard for other incandescent reflector lamps established by the Secretary pursuant to this section.

"(C) Any rulemaking for incandescent reflector lamps completed after enactment of this section shall consider standards for all incandescent reflector lamps, inclusive of those specified in paragraph (1)(C).

"(10) REFLECTOR LAMPS.—No later than January 1, 2015, the Secretary shall publish a final rule establishing and amending standards for reflector lamps, including incandescent reflector lamps. Such standards shall be effective no sooner than three years after publication of the final rule. Such rulemaking shall consider incandescent and nonincandescent technologies.".

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(a) STANDARDS FOR WATER DISPENSERS, HOT FOOD HOLDING CABINETS, AND PORTABLE ELECTRIC SPAS.—

(1) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291), as amended by section 211 of this Act, is further amended by adding at the end the following:

"(75) The term 'water dispenser' means a factory-made assembly that mechanically cools and heats potable water and that dispenses the cooled or heated water by integral or remote means.

"(76) The term 'bottle-type water dispenser' means a water dispenser that uses a bottle or reservoir as the source of potable water.

"(77) The term 'point of use water dispenser' means a water dispenser that uses a building's water pipes as the source of potable water.

"(78) The term 'commercial hot food holding cabinet' means a heated, fully-enclosed compartment with one or more solid or glass doors that is designed to maintain the temperature of hot food that has been cooked in a separate appliance. Such term does not include heated glass merchandizing cabinets, drawer warmers, or cook-and-hold appliances.

"(79) The term 'portable electric spa' means a factory-built electric spa or hot tub, supplied with equipment for heating and circulating water.".

(2) TEST PROCEDURES.—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)) is amended by adding at the end the following:

"(19) BOTTLE TYPE WATER DISPENSERS AND POINT OF USE WATER DISPENSERS.—Test procedures for bottle type water dispenser and point of use water dispensers shall be based on 'Energy Star Program Requirements for Bottled Water Coolers version 1' published by the Environmental Protection Agency. Units with an integral, automatic timer shall not be tested using section D, 'Timer Usage,' of the test criteria.

"(20) COMMERCIAL HOT FOOD HOLDING CABINETS.—Test procedures for commercial hot food holding cabinets shall be based on the test procedures described in ANSI/ASTM F2140–01 (Test for idle energy rate-dry test). Interior volume shall be based on the method shown in the Environmental Protection Agency's 'Energy Star Program Requirements for Commercial Hot Food Holding Cabinets' as in effect on August 15, 2003.

"(21) PORTABLE ELECTRIC SPAS.—Test procedures for portable electric spas shall be based on the test method for portable electric spas contained in section 1604, title 20, California Code of Regulations as amended on December 3, 2008.".

(3) STANDARDS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295), as amended by section 211 of this Act, is further amended by adding after subsection (ii) the following:

"(kk) BOTTLE TYPE WATER DISPENSERS AND POINT OF USE WATER DISPENSERS.—Effective January 1, 2012, bottle-type water dispensers and point of use

water dispensers designed for dispensing both hot and cold water shall not have standby energy consumption greater than 1.2 kilowatt-hours per day.

"(ll) COMMERCIAL HOT FOOD HOLDING CABINETS.—Effective January 1, 2012, commercial hot food holding cabinets with interior volumes of 5 cubic feet or greater shall have a maximum idle energy rate of 40 watts per cubic foot of interior volume. Commercial hot food holding cabinets with interior volumes of less than 5 cubic feet or less shall have a maximum idle energy rate of 40 watts.

"(mm) PORTABLE ELECTRIC SPAS.—Effective January 1, 2012, portable electric spas shall not have a normalized standby power greater than $5(V^{2/3})$ Watts where V=the fill volume in gallons.

"The Secretary of Energy shall consider revisions to the standards in subsections (kk), (ll), and (mm) in accordance with subsection (o) and publish a final rule no later than January 1, 2013 establishing such revised standards, or make a finding that no revisions are technically feasible and economically justified. Any such revised standards shall take effect January 1, 2016.".

(b) COMMERCIAL FURNACE EFFICIENCY STANDARDS.—Section 342(a) of the Energy Policy and Conservation Act (42 U.S.C. 6312(a))is amended by inserting after paragraph (10) the following new paragraph

"(11) WARM AIR FURNACES.—Each warm air furnace with an input rating of 225,000 Btu per hour or more and manufactured after one year from date of enactment of this paragraph shall meet the following standard levels:

"(A) GAS-FIRED UNITS.—

"(i) Minimum combustion efficiency of 80 percent.

"(ii) Include an interrupted or intermittent ignition device.

"(iii) Have jacket losses not exceeding 0.75 percent of the input rating.

"(iv) Have either power venting or a flue damper.

"(B) OIL-FIRED UNITS.—

"(i) Minimum thermal efficiency of 81 percent

"(ii) Have jacket losses not exceeding 0.75 percent of the input rating;

"(iii) Have either power venting or a flue damper.".

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(a) DEFINITION OF ENERGY CONSERVATION STANDARD.—Section 321(6) of the Energy Policy and Conservation Act (42 U.S.C. 6291(6)) is amended to read as follows:

"(6) ENERGY CONSERVATION STANDARD.—

"(A) IN GENERAL.—The term 'energy conservation standard' means 1 or more performance standards that—

"(i) for covered products (excluding clothes washers, dishwashers, showerheads, faucets, water closets, and urinals), prescribe a minimum level of energy efficiency or a maximum quantity of energy use, determined in accordance with test procedures prescribed under section 323;

"(ii) for showerheads, faucets, water closets, and urinals, prescribe a minimum level of water efficiency or a maximum quantity of water use, determined in accordance with test procedures prescribed under section 323; and

"(iii) for clothes washers and dishwashers—

"(I) prescribe a minimum level of energy efficiency or a maximum quantity of energy use, determined in accordance with test procedures prescribed under section 323; and

"(II) may include a minimum level of water efficiency or a maximum quantity of water use, determined in accordance with those test procedures.

"(B) INCLUSIONS.—The term 'energy conservation standard' includes—

"(i) 1 or more design requirements, if the requirements were established—

"(I) on or before the date of enactment of this subclause;

"(II) as part of a consensus agreement under section 325(p)(4); or

"(III) as part of a final rule published on or after January 1, 2012, and

"(ii) any other requirements that the Secretary may prescribe under section 325(r).

"(C) EXCLUSION.—The term 'energy conservation standard' does not include a performance standard for a component of a finished covered product, unless

regulation of the component is authorized or established pursuant to this title.".

(b) ADOPTING CONSENSUS TEST PROCEDURES AND TEST PROCEDURES IN USE ELSEWHERE.—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)), as amended by section 212 of this Act, is further amended by adding the following new paragraph after paragraph (21):

"(22) CONSENSUS AND ALTERNATE TEST PROCEDURES.—

"(A) RECEIPT OF JOINT RECOMMENDATION OR ALTERNATE TESTING PROCEDURE.—On receipt of—

"(i) a statement that is submitted jointly by interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of covered products, States, and efficiency advocates), as determined by the Secretary, and contains recommendations with respect to the testing procedure for a covered product, or

"(ii) a submission of a testing procedure currently in use for a covered product by a State, nation, or group of nations—

"(I) if the Secretary determines that the recommended testing procedure contained in the statement or submission is in accordance with subsection (b)(3), the Secretary may issue a final rule that establishes an energy or water conservation testing procedure that is published simultaneously with a notice of proposed rulemaking that proposes a new or amended energy or water conservation testing procedure that is identical to the testing procedure established in the final rule to establish the recommended testing

procedure (referred to in this paragraph as a 'direct final rule'); or

"(II) if the Secretary determines that a direct final rule cannot be issued based on the statement or submission, the Secretary shall publish a notice of the determination, together with an explanation of the reasons for the determination.

"(B) PUBLIC COMMENT.—The Secretary shall solicit public comment for a period of at least 110 days with respect to each direct final rule issued by the Secretary under subparagraph (A)(ii)(I).

"(C) WITHDRAWAL OF DIRECT FINAL RULES.—

"(i) IN GENERAL.—Not later than 120 days after the date on which a direct final rule issued under subparagraph (A)(ii)(I) is published in the Federal Register, the Secretary shall withdraw the direct final rule if—

"(I) the Secretary receives 1 or more adverse public comments relating to the direct final rule under subparagraph (B)or any alternative joint recommendation; and

"(II) based on the rulemaking record relating to the direct final rule, the Secretary determines that such adverse public comments or alternative joint recommendation may provide a reasonable basis for withdrawing the direct final rule under paragraph (3) or any other applicable law.

"(ii) ACTION ON WITHDRAWAL.—On withdrawal of a direct final rule under clause (i), the Secretary shall—

"(I) proceed with the notice of proposed rulemaking published simultaneously with the direct final rule as described in subparagraph (A)(ii)(I); and

"(II) publish in the Federal Register the reasons why the direct final rule was withdrawn.

"(iii) TREATMENT OF WITHDRAWN DIRECT FINAL RULES.—A direct final rule that is withdrawn under clause (i) shall not be considered to be a final rule for purposes of subsection (b).

"(D) EFFECT OF PARAGRAPH.—Nothing in this paragraph authorizes the Secretary to issue a direct final rule based solely on receipt of more than 1 statement containing recommended test procedures relating to the direct final rule.".

(c) UPDATING TELEVISION TEST METHODS.—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b))(42 U.S.C. 6293(b)), as amended by subsection (a)(2) is further amended by adding at the end the following new paragraph:

"(23) TELEVISIONS.—(A) On the date of enactment of this section, Appendix H to Subpart B of Part 430 of the United States Code of Federal Regulations, 'Uniform Test Method for Measuring the Energy Consumption of Television Sets', is repealed.

"(B) No later than 12 months after enactment of this paragraph the Secretary shall publish in the Federal Register a final rule prescribing a new test method for televisions.".

(d) CRITERIA FOR PRESCRIBING NEW OR AMENDED STANDARDS.—(1) Section 325(o)(2)(B)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6295(o)(2)(B)(i)) is amended as follows:

(A) By striking "and" at the end of subclause (VI).

(B) By and inserting the following new subclauses after subclause (VI):

"(VII) the estimated value of the carbon dioxide or other greenhouse gas emission reductions that will be achieved by virtue of the higher energy efficiency of the covered products resulting from the imposition of the standard;

"(VIII) the estimated impact of standards for a particular product on average consumer energy prices;

"(IX) the increased energy efficiency that may be attributable to the installation of Smart Grid technologies or capabilities in the covered products, if applicable in the determination of the Secretary;

"(X) the commercial availability in the United States or in other nations of examples of covered products that achieve significantly higher efficiency standards for energy or for water, including their degree of market penetration; and".

(C) By redesignating subclause (VII) as subclause (XI).

(2) Section 325(o)(2)(B)(iii) of such Act is amended as follows:

(A) By striking "three" and inserting "5".

(B) By striking the last sentence and inserting the following:

"Such a presumption may be rebutted only if the Secretary finds, based on clear, convincing, and reliable evidence, that—

"(I) such standard level would cause serious and unavoidable hardship to the average consumer of the product, or to manufacturers supplying a significant portion of the market for the product, that substantially outweighs the standard level's benefits;

"(II) the standard and implementing regulations cannot be designed to avoid or mitigate the hardship identified under subparagraph I, through the adoption of regional standards consistent with paragraph (6) of this subsection, or other reasonable means consistent with this chapter;

"(III) the same or substantially similar hardship would not occur under a standard adopted in the absence of the presumption, but that otherwise meets the requirements of this section; and

"(IV) the hardship cannot be avoided or mitigated pursuant the procedures specified in section 504 of the Department of Energy Organization Act (42 U.S.C. 7194).

"A determination by the Secretary that the criteria triggering the such presumption are not met, or that the criterion for rebutting the presumption are met shall not be taken into consideration in the Secretary's determination of whether a standard is economically justified.".

(e) OBTAINING APPLIANCE INFORMATION FROM MANUFACTURERS.—Section 326(d) of the Energy Policy and Conservation Act (42 U.S.C. 6295(d)) is amended to read as follows:

"(d) INFORMATION REQUIREMENTS.—(1) For purposes of carrying out this part, the Secretary shall publish proposed regulations not later than one year from the enactment of the American Clean Energy and Security Act of 2009, and after receiving public comment, final regulations not later than 18 months from such date of enactment under this part or other provision of law administered by the Secretary, which shall require each manufacturer of a covered product to submit information or reports to the Secretary on an annual basis in a form adopted by the Secretary. Such reports shall include information or data with respect to—

"(A) the manufacturers' compliance with all requirements applicable pursuant to this part;

"(B) the economic impact of any proposed energy conservation standard;

"(C) the manufacturers' annual shipments of each class or category of covered products, organized, to the maximum extent practicable, by—

"(i) energy efficiency, energy use, and, if applicable, water use;

"(ii) the presence or absence of such efficiency related or energy consuming operational characteristics or components as the Secretary determines are relevant for the purposes of carrying out this part; and

"(iii) the State or regional location of sale, for covered products for which the Secretary may adopt regional standards; and

"(D) such other categories of information as the Secretary deems relevant to carry out this part, including such other information as may be necessary to establish and revise test procedures, labeling rules, and energy conservation standards and to insure compliance with the requirements of this part.

"(2) In adopting regulations under this subsection, the Secretary shall consider existing public sources of information, including nationally recognized certification programs of trade associations.

"(3) The Secretary shall exercise authority under this section in a manner designed to minimize unnecessary burdens on manufacturers of covered products.

"(4) To the extent that they do not conflict with the duties of the Secretary in carrying out this part, the provisions of section 796(d) of title 15 shall apply with respect to information obtained under this subsection to the same extent and in the same manner as they apply with respect to other energy information obtained under section 15 U.S.C. 796.".

(f) STATE WAIVER.—Section 327(c) of the Energy Policy and Conservation Act (42 U.S.C. 6297(c)) is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting "; and" and by adding at the end the following:

> "(10) is a regulation concerning standards for hot food holding cabinets, drinking water dispensers and portable electric spas adopted by the California Energy Commission on or before January 1, 2013.".

(g) WAIVER OF FEDERAL PREEMPTION.—Subsection (b) of section 327 of the Energy Policy and Conservation Act (42 U.S.C. 6297(d)) is amended as follows:

> (1) In subparagraph (A) of paragraph (1) of such subsection (b) by inserting "statute or" between "State" and "regulation" in both instances where it occurs.
>
> (2) In subparagraph (B) of paragraph (1) of such subsection (b) by adding at the following at the end thereof: "In making such a finding, the Secretary may not reject a petition for failure of the petitioning State or river basin commission to produce confidential information maintained by any manufacturer or distributor, or group or association of manufacturers or distributors, and which the petitioning party does not have the legal right to obtain.".

(3) In clause (ii) of paragraph (1)(C) of such subsection (b) by inserting "estimated" before"costs" in both instances where it appears.

(4) In paragraph (1)(C)(ii) of such subsection (b) by striking "in the context of the State's energy plan and forecast,".

(h) INCLUSION OF CARBON OUTPUT ON APPLIANCE "ENERGYGUIDE" LABELS.—(1) Section 324(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding the following at the end: "

"(I) (i) Not later than 90 days after the date of enactment of this subparagraph, the Commission shall initiate a rulemaking to implement the additional labeling requirements specified in subsection (c)(1)(C) of this section with an effective date for the revised labeling requirement not later than 6 months from issuance of the final rule.

"(ii) Not later than 18 months after the date of enactment of this subparagraph, the Commission shall complete the rulemaking initiated under clause (i).

"(iii) Not later than 90 days after issuance of the final rule as provided in this subparagraph, the Secretary shall issue calculation methods required to effectuate the labeling requirements specified in subsection (c)(1)(C) of this section."

(2) Section 324(c)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6294(c)(1)) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B); and

(C) by adding at the end the following new subparagraphs:

"(C) for products or groups of products providing a comparable function (including the group of products comprising the heating function of heat pumps and furnaces) among covered products listed in paragraphs (3), (4), (5), (8), (9), (10) and (11) of section 322 (a) of this part, and others designated by the Secretary, the estimated total annual atmospheric carbon dioxide emissions (or their equivalent in other greenhouse gases) associated with, or caused by, the product, calculated utilizing the following:

"(i) national average energy use for the product including energy consumed at the point of end use based on test procedures developed under section 323 of this part;

"(ii) national average energy consumed or lost in the production, generation, transportation, storage, and distribution of energy to the point of end use; and

"(iii) any direct emissions of greenhouse gases from the product during normal use;

"(D) In determining the national average energy consumption and total annual atmospheric carbon dioxide emissions, the Secretary shall utilize Federal government sources, including the Energy Information Administration Annual Energy Review, the Environmental Protection Agency eGRID data base, Environmental Protection Agency AP–42 Emission Factors as amended, and other sources determined to be appropriate by the Secretary; and

"(E) information presenting, for each product (or group of products providing the comparable function) identified in section (c)(1)(C) of this section, the estimated annual carbon dioxide emissions calculated within the range of emissions calculated for all models of the product or group according to its function, including those models consuming fuels and those models not consuming fuels.".

(i) PERMITTING STATES TO SEEK INJUNCTIVE ENFORCEMENT.—Section 334 of the Energy Policy and Conservation Act (42 U.S.C. 6304(a)) is amended to read as follows:

"SEC. 334. JURISDICTION AND VENUE.

"(a) JURISDICTION.—The United States district courts shall have jurisdiction to restrain—

"(1) any violation of section 332; and

"(2) any person from distributing in commerce any covered product which does not comply with an applicable rule under section 324 or 325.

"(b) AUTHORITY.—Any action referred to in subsection (a) shall be brought by the Commission or by the attorney general of a State in the name of the State, except that—

"(1) any such action to restrain any violation of section 332(a)(3) which relates to requirements prescribed by the Secretary or any violation of section 332(a)(4) which relates to request of the Secretary under section 326(b)(2) shall be brought by the Secretary; and

"(2) any violation of section 332(a)(5) or 332(a)(7) shall be brought by the Secretary or by the attorney general of a State in the name of the State.

"(c) VENUE AND SERVICE OF PROCESS.—Any such action may be brought in the United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court of the district wherein the defendant is found or transacts business. In any action under this section, process may be served on a defendant in any other district in which the defendant resides or may be found.".

(j) TREATMENT OF APPLIANCES WITHIN BUILDING CODES.—(1) Section 327(f)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6297(f)(3))is amended by striking subparagraphs (B) through (E) and inserting the following: "

"(B) The code meets at least one of the following requirements—

"(i) The code does not require that the covered product have an energy efficiency exceeding—

"(I) the applicable energy conservation standard established in or prescribed under section 325;

"(II) the level required by a regulation of that State for which the Secretary has issued a rule granting a waiver under subsection (d) of this section; or

"(III) the required level established in the International Energy Conservation Code or in a standard of the American Society of Heating, Refrigerating and Air-Conditioning Engineers.

"(ii) If the code uses one or more baseline building designs against which all submitted building designs are to be evaluated and such baseline building designs contain a covered product subject to an energy conservation standard established in or prescribed under section 325, the baseline building designs are based on an efficiency level for such covered product which meets but does not exceed one of the levels specified in clause (i).

"(iii) If the code sets forth one or more optional combinations of items which meet the energy consumption or conservation objective, in at least one combination that the State has found to be reasonably achievable using commercially available technologies the efficiency of the covered product meets but does not exceed one of the levels specified in clause (i).

"(C) The credit to the energy consumption or conservation objective allowed by the code for installing covered products having energy efficiencies exceeding one of the levels specified in subparagraph (B)(i) is on a one-for-one equivalent energy use or equivalent energy cost basis, taking into account the typical lifetime of the product.

"(D) The energy consumption or conservation objective is specified in terms of an estimated total consumption of energy (which may be calculated from energy loss- or gain-based codes) utilizing an equivalent amount of energy (which may be specified in units of energy or its equivalent cost) and equivalent lifetimes.

"(E) The estimated energy use of any covered product permitted or required in the code, or used in calculating the objective, is determined using the applicable test procedures prescribed under section 323, except that the State may permit the estimated energy use calculation to be adjusted to reflect the conditions of the areas where the code is being applied if such adjustment is based on the use of the applicable test procedures prescribed under section 323 or other technically accurate documented procedure.".

(2) Section 327(f)(4)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6297(f)(4)(B)) is amended to read as follows:

"(B) If a building code requires the installation of covered products with efficiencies exceeding the levels and requirements specified in paragraph (3)(B), such requirement of the building code shall not be applicable unless the Secretary has granted a waiver for such requirement under subsection (d) of this section.".

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(a) IN GENERAL.—The Secretary of Energy shall, in consultation with the Administrator, establish and administer a program to be known as the "Best-in-Class Appliances Deployment Program".

(b) PURPOSE.—The purpose of the Best-in-Class Appliances Deployment Program is to reward retailers with bonuses for increasing the sales of best-in-class high-efficiency installed building equipment, high-efficiency consumer electronics, and high-efficiency household appliance models, with the goal of reducing life-cycle costs for consumers, encouraging innovation, and maximizing energy savings and public benefit. The program shall include bounties under subsection (c) to retailers for the replacement and recycling of old, inefficient, and environmentally harmful appliances. The program shall also include bonuses under subsection (d) to manufacturers for developing new Superefficient Best-in-Class Products.

(b) INCENTIVES FOR SALES OF BEST-IN-CLASS PRODUCT MODELS.—

(1) SELECTION OF BEST-IN-CLASS PRODUCT MODELS.—In establishing the program, the Secretary of Energy shall use broad product classes and select as qualifying Best-in-Class Product models no more than the most efficient ten percent of the commercially available product models in a class that demonstrate, as a group, a distinctly greater energy efficiency than the average energy efficiency of that class of appliances. In selecting models, the Secretary shall—

(A) identify commercially available models in the relevant class of products;

(B) identify the subgroup and percentage of those models (not greater than 10 percent) that the Secretary believes share the distinctly higher energy-efficiency characteristics that warrant designation as best-in-class;

(C) specify the higher energy-efficiency characteristic they share;

(D) announce the best-in-class designation and the best-in-class bonus to be paid for each sale of an eligible best-in-class model over a 3-year period beginning on the date of the announcement;

(E) add other models in that class to the list of best-in-class models eligible for the bonus as they demonstrate their ability to meet the higher-efficiency characteristics on which the designation was made; and

(F) make bonus payments for qualifying models sold during the 3-year period.

(2) REVIEW OF BEST-IN-CLASS STANDARDS.—The Secretary shall review annually the product-specific criteria and the product models that qualify as Best-in-Class Products and, after a 30-day comment period, make upwards adjustments in the efficiency criteria as required to maintain an appropriate ratio of such product models to the total number of product models in the product class.

(3) UPGRADE OF BEST-IN-CLASS PRODUCT ELIGIBILITY.—To the extent that the Secretary determines to increase the energy efficiency required to qualify for best-in-class designation within any group of product models, the Secretary shall—

(A) consider any Superefficient Best-in-Class Product models that have been designated pursuant to subsection (d);

(B) specify and announce the new higher best-in-class standard;

(C) list those models that qualify as best-in-class under the new higher standard;

(D) announce any change in the bonus payment appropriate to increase the market share of such best-in-class models, which shall not be lower than any ongoing

bonus payment during the 3-year period for any prior designation of best-in-class models;

(E) pay the new bonus payment for any models already qualifying under the earlier best-in-class standard that continue to qualify under the revised standard for a new 3-year-period; and

(F) continue paying bonus payments at the original level to any models that qualified at that level but do not qualify at the new level for the remainder of the 3-year period announced with the original designation.

(4) SIZE OF INDIVIDUAL BONUS PAYMENTS.—The size of each bonus payment shall be the product of—

(A) an amount determined by the Secretary; and

(B) the difference in energy consumption as determined by comparing the energy used by the qualifying product and the energy used by the average product in the product class.

The Secretary shall determine the amount under subparagraph (A) for each product type in consultation with State and utility efficiency program administrators as well as the Administrator, based on estimates of the amount of bonus payment that would provide significant incentive to increase the market share of Best-in-Class Products.

(5) ELIGIBLE BONUS RECIPIENT.—(A) The Secretary shall ensure that not more than 1 bonus payment is provided to distributors and retailers per unit of eligible models sold.

(B) In this section—

(i) the term "retailer" means an individual, organization, or company that sells products directly to end-users; and

(ii) the term "distributor" mean an individual, organization, or company that sells products in multiple lots and not directly to individual end-users.

(C) The Secretary may make distributors eligible to receive the best-in-class incentive for sales that are not to the final end-user in addition to retailers to the extent that the Secretary determines that for a particular product category distributors are well situated to increase sales of Best-in-Class Products.

(c) BOUNTIES FOR REPLACEMENT AND RETIREMENT OF EXISTING LOW-EFFICIENCY PRODUCTS.—

(1) The Secretary of Energy shall establish a program to make a bounty payment for the recovery and recycling of older operating low-efficiency appliances that might otherwise continue in operation.

(2) The Secretary shall offer a bounty as an additional incentive for retailers based on documentation that the sales of a Best-in-Class Product were accompanied by the retirement and recycling of an existing inefficient but still-functioning product by the consumer to whom the Best-in-Class Product was sold.

(3) The bounty payment shall be based on the difference between the estimated energy use of the product replaced and the energy use of an average new product in the product class, discounted for the estimated remaining lifetime of the product that was recycled.

(4) The Secretary may specify that the availability of a product bonus related to sale of a Best-in-Class Product is linked to the recovery and recycling of an older working appliance, and may limit the total payment to less than the sum of the bonus and the bounty payments, if not doing so would mean that the Nation's total energy use would otherwise increase.

(5) The Secretary shall ensure that no product for which a bounty is paid is sold or returned to active service, but that it is instead destroyed, and recycled to the extent feasible.

(6) The Secretary shall establish standards for environmentally responsible methods of recycling, especially for products utilizing refrigerants.

(d) REWARDS TO MANUFACTURERS FOR DEVELOPMENT OF SUPEREFFICIENT BEST-IN-CLASS PRODUCTS.—

(1) IN GENERAL.—(A) The Secretary of Energy shall establish a program to reward manufacturers for the development and production of Superefficient Best-in-Class Products.

(B) In this section, the term "Superefficient Best-in-Class Product" means a product that—

(i) can be mass produced; and

(ii) achieves the highest level of efficiency that the Secretary finds could be produced and sold commercially to mass-market consumers.

(C) The Secretary may establish a standard for a Superefficient Best-in-Class Product even if no existing product exists, if the Secretary has reasonable grounds to conclude that a mass-producable product could be made to meet that standard.

(D) The Secretary may also establish a superefficient best-in-class level that is met by one or more existing Best-in-Class Product models if those product models have distinct energy efficiency attributes and performance characteristics that make them significantly better, in the judgment of the Secretary, than those product models qualifying as best-in-class, but that represent not more than 10 percent of the currently qualifying best-in-class models.

(2) REWARD.—

(A) The bonus payment provided to a manufacturer for the development and production of a Superefficient Best-in-Class Product shall be in addition to any bonus payments made to retailers for best-in-class qualification.

(B) The amount of the bonus paid per unit for qualifying Superefficient Best-in-Class Product models as sold to retailers or distributors shall be the product of—

(i) an amount determined by the Secretary; and

(ii) the difference in energy consumption as determined by comparing the energy used by the qualifying product and the energy used by the average product in the product class.

(C) The Secretary shall determine the amount under subparagraph (B)(i) for each product type by considering the present value to the nation of the energy (and water or other resources or inputs) saved over the useful life of the product, and may adjust this value upward or downward after consultation with State and utility efficiency program administrators as well as the Administrator.

(D) The adjustment may also be made based on the effect of the bonuses on the sales of products in different classes that may be affected by this program.

(E) The incremental bonus payments shall be applied to sales of any Superefficient Best-in-Class Product for the first 3 years of its sale.

(3) COORDINATION OF INCENTIVES.—No product for which Federal tax credit is received under section 45M of the Internal Revenue Code of 1986 shall be eligible to receive bonus payments pursuant to this subsection.

(e) REPORTING.—Each retailer, distributor, and manufacturer participating in the program under this section shall meet any reasonable request of the Secretary of Energy for documentation of sales reported for purpose of receiving bonuses or bounties, and shall report to the Secretary, on a confidential basis for program-design purposes—

(1) for retailers and distributors, the number of units sold within each product type and model-specific wholesale purchase price on a monthly basis;

(2) for manufacturers, model-specific energy consumption data; and

(3) for manufacturers, on an immediate basis, concerning any product design or function changes that affect the energy consumption of the unit.

(f) AUDITING REQUIREMENTS.—The Secretary of Energy shall establish monitoring and verification protocols to ensure that energy consumption tests for each model are recorded correctly and that sales of energy-efficient models are tabulated correctly by each claimant of bonus or bounty payments under this section. In addition, the Secretary may require reports from retailers on the methods used to increase the sales of qualifying products as a factor in determining the level and allocation of any such payments.

(g) DISCLOSURE.—The Secretary of Energy may require that retailers and distributors disclose publicly and to consumers their participation in the program under this section.

(h) COST-EFFECTIVENESS REQUIREMENT.—

(1) DEFINITIONS.—In this subsection:

(A) COST-EFFECTIVENESS.—The term "cost-effectiveness" means a measure of aggregate savings in the cost of energy over the lifetime of the product as a ratio to the cost to the Secretary of Energy of the rewards for the product.

(B) SAVINGS.—The term "savings" means the cumulative megawatt-hours of electricity or million British thermal units of other fuels saved by a product, in comparison to projected energy consumption based on the efficiency performance of displaced new product sales. The amount of savings is the product of—

(i) the net number of best-in-class or superefficient best-in-class pieces of equipment, electronics, and appliances sold by a retailer, manufacturer, or distributor in a calendar year;

(ii) the savings during the projected useful life of the pieces of equipment, electronics, and appliances; and

(iii) the impact of any documented measures to retire and recycle low-performing devices at the time of purchase of highly-efficient substitutes.

(2) REQUIREMENT.—The Secretary shall make cost-effectiveness a top priority in designing and administering this section, except that the cost-effectiveness of the bonuses to manufacturers, in aggregate, may be lower by this measure than that of the bonuses and bounties to retailers and distributors.

(i) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2010 through 2014 to the Secretary of Energy for purposes of this section, of which not more than 10 percent for any fiscal year may be expended on program administration.

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Section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a) is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) PURPOSE.—The purpose of the Energy Star program for products is to assist consumers in selecting products for purchase that have demonstrated high energy efficiency and that are cost-effective from the consumer's perspective, ensuring that any incremental cost attributable to the energy-efficient features of such products will be more than recovered in the value of energy savings the products will make possible within several years of purchase, typically within 3 years but no more than 5 years.".

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(a) MOTOR VEHICLE STANDARDS.—The President shall use statutory authorities in effect on the day before the enactment of this section to set motor vehicle standards that—

(1) are achievable by the automobile manufacturing companies;

(2) to the extent practicable, harmonize standards that may be set by the National Highway Traffic Safety Administration pursuant to the authority in chapter 329 of title 49, United States Code, standards that may be set by the Administrator of the Environmental Protection Agency pursuant to the authority in the Clean Air Act, and standards that have or may be set by the State of California;

(3) achieve at least as much emissions reductions as would be achieved by implementation of the California law AB 1493 if enforced in the State of California and the other States that have adopted the standard; and

(4) do not preempt California's legal authority to adopt and enforce its own mobile source emissions standards.

(b) GREENHOUSE GAS EMISSION STANDARDS FOR MOBILE SOURCES.—Title VIII of the Clean Air Act, as added by section 331 of this Act, is amended by inserting after part A the following new part:

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"(a) MOTOR VEHICLES AND ENGINES.—

"(1) Pursuant to section 202(a)(1), by December 31, 2010, the Administrator shall promulgate standards applicable to emissions of greenhouse gases from new heavy-duty vehicles and engines, excluding such vehicles covered by the Tier II standards (as established by the Administrator as of the date of the enactment of this section). The Administrator may revise these standards from time to time.

"(2) Regulations issued under section 202(a)(1) applicable to emissions of greenhouse gases from new heavy-duty vehicles and engines, excluding such vehicles covered by the Tier II standards (as established by the Administrator as of the date of the enactment of this section), shall contain standards that achieve the greatest degree of emissions reduction achievable based on the application of technology which the Administrator determines will be available at the time such standards take effect, taking into consideration cost, energy, and safety factors associated with the application of such technology. Any such regulations shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology.

"(b) NONROAD VEHICLES AND ENGINES.—

"(1) Pursuant to section 213(a)(4), the Administrator shall promulgate standards applicable to emissions of greenhouse gases from new marine vessels and locomotives, and from new engines used in marine vessels and locomotives, by December 31, 2012. The Administrator shall also promulgate standards applicable to emissions of greenhouse gases for such other classes and categories of nonroad vehicles and engines as the Administrator determines appropriate and in the timeframe the Administrator determines appropriate. The Administrator shall base such determination, among other factors, on the relative contribution of greenhouse gas emissions, and the costs for achieving reductions, from such classes or categories of new nonroad engines and vehicles. The Administrator may revise these standards from time to time.

"(2) Standards under section 213(a)(4) applicable to emissions of greenhouse gases from new marine vessels and locomotives, and from new engines used in marine vessels and locomotives, shall achieve the greatest degree of emissions reduction achievable based on the application of technology which the Administrator determines will be available at the time such standards take effect, taking into consideration cost, energy, and safety factors associated with the application of such technology. Any such regulations shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology.

"(3) For purposes of this section and standards under section 213(a)(4) applicable to emissions of greenhouse gases, the term 'nonroad engines and vehicles' shall include non-internal combustion engines and the vehicles these engines power (such as electric engines and electric vehicles), for those non-internal combustion engines and vehicles which would be in the same category and have the same uses as nonroad engines and vehicles that are powered by internal combustion engines.

"(c) AIRCRAFT AND AIRCRAFT ENGINES.—

"(1) Pursuant to section 231(a), the Administrator shall promulgate standards applicable to emissions of greenhouse gases from new aircraft and new engines used in aircraft by December 31, 2012. Notwithstanding any requirement in section 231(a), the Administrator shall also promulgate standards applicable to emissions of greenhouse gases from other classes and categories of aircraft and aircraft engines for such classes and categories as the Administrator determines appropriate and in the timeframe the Administrator determines appropriate. The Administrator may revise these standards from time to time.

"(2) Standards under section 231(a) applicable to emissions of greenhouse gases from new aircraft and new engines used in aircraft, and any later revisions or additional standards, shall achieve the greatest degree of emissions reduction achievable based on the application of technology which the Administrator determines will be available at the time such standards take effect, taking into consideration cost, energy, and safety factors associated with the application of such technology. Any such standards shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology.

"(d) AVERAGING, BANKING, AND TRADING OF EMISSIONS CREDITS.—In establishing standards applicable to emissions of greenhouse gases pursuant to this section and sections 202(a), 213(a)(4), and 231(a), the Administrator may establish provisions for averaging, banking, and trading of greenhouse gas emissions credits within or across classes or categories of motor vehicles and motor vehicle engines, nonroad vehicles and engines (including marine vessels), and aircraft and aircraft engines, to the extent the Administrator determines appropriate and considering the factors appropriate in setting standards under those sections. Such provisions may include reasonable and appropriate provisions concerning generation, banking, trading, duration, and use of credits.

"(e) REPORTS.—The Administrator shall, from time to time, submit a report to Congress that projects the amount of greenhouse gas emissions from the transportation sector, including transportation fuels, for the years 2030 and 2050, based on the standards adopted under this section.".

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Title VIII of the Clean Air Act, as added by section 331 of this Act, is further amended by inserting after part C the following new part:

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SEC. 841. GREENHOUSE GAS EMISSIONS REDUCTIONS THROUGH TRANSPORTATION EFFICIENCY.

"(a) IN GENERAL.—Each State shall—

"(1) not later than 3 years after the date of the enactment of this section, submit to the Administrator goals for transportation-related greenhouse gas emissions reductions; and

"(2) as part of each transportation plan or transportation improvement plan developed under title 23 or title 49, United States Code, ensure that a plan to achieve such goals, or an updated version of such a plan, is submitted to the Administrator and to the Secretary of Transportation (in this section referred to as the 'Secretary') by each metropolitan planning organization in the State for an area with a population exceeding 200,000.

"(b) MODELS AND METHODOLOGIES.—

"(1) IN GENERAL.—The Administrator shall promulgate regulations to establish standardized models and methodologies for use in developing goals, plans, and strategies under this section. Such regulations may approve or improve existing models and methodologies.

"(2) TIMING.—The Administrator shall—

"(A) publish proposed regulations under paragraph (1) not later than 1 year after the date of the enactment of this section; and

"(B) promulgate final regulations under paragraph (1) not later than 2 years after such date of enactment.

"(c) GREENHOUSE GAS REDUCTION GOALS.—

"(1) CONSULTATION.—Each State shall develop the goals referred to in subsection (a)(1)—

"(A) in concurrence with State agencies responsible for air quality and transportation;

"(B) in consultation with each metropolitan planning organization for an area in the State with a population exceeding 200,000 and applicable local air quality and transportation agencies; and

"(C) with public involvement, including public comment periods and meetings.

"(2) PERIOD.—The goals referred to in subsection (a)(1) shall be for 10- and 20-year periods.

"(3) TARGETS; DESIGNATED YEAR.—The goals referred to in subsection (a)(1) shall establish targets to reduce mobile source greenhouse gas emissions in the covered area from levels projected under a business-as-usual scenario. The targets shall be designed to ensure that the levels of such emissions stabilize and decrease after a designated year. The State shall consider designating 2010 as such designated year.

"(4) COVERED AREA.—The goals referred to in subsection (a)(1) shall be established—

"(A) on a statewide basis; and

"(B) for each metropolitan planning organization in the State for an area with a population exceeding 200,000.

"(5) REVISED GOALS.—Every 4 years, each State shall update and revise, as appropriate, the goals referred to in subsection (a)(1).

"(d) PLANNING.—A plan referred to in subsection (a)(2) shall—

"(1) be based upon the models and methodologies established by the Administrator under subsection (b);

"(2) address mobile sources, economic development, and scenario analysis; and

"(3) be developed—

"(A) with public involvement, including public comment periods and meetings;

"(B) with regional coordination, including with respect to—

"(i) metropolitan planning organizations;

"(ii) the localities comprising the metropolitan planning organization;

"(iii) the State in which the metropolitan planning organization is located; and

"(iv) air quality and transportation agencies for the State and region involved; and

"(C) in consultation with the State and local housing, public health, economic development, land use, environment, and public transportation agencies.

"(e) STRATEGIES.—In developing goals under subsection (a)(1) and a plan under subsection (a)(2), the State or metropolitan planning

organization, as applicable, shall consider transportation and land use planning strategies to reduce greenhouse gas emissions, including the following:

"(1) Efforts to increase public transportation, including commuter rail service and ridership, by adding at a minimum—

"(A) new public transportation systems, including new commuter rail systems;

"(B) employer-based subsidies; and

"(C) cleaner locomotive technologies.

"(2) Updates to zoning and other land use regulations and plans to support development that—

"(A) coordinates transportation and land use planning;

"(B) focuses future growth close to existing and planned job centers and public facilities;

"(C) uses existing infrastructure;

"(D) promotes walking, bicycling, and public transportation use; and

"(E) mixes land uses such as housing, retail, and schools.

"(3) Implementation of a policy (referred to as a 'complete streets policy') that—

"(A) ensures adequate accommodation of all users of transportation systems, including pedestrians, bicyclists, public transportation users, motorists, children, the elderly, and individuals with disabilities; and

"(B) adequately addresses the safety and convenience of all users of the transportation system.

"(4) Construction of bicycle and pedestrian infrastructure facilities.

"(5) Projects to promote telecommuting, flexible work schedules, or satellite work centers.

"(6) Pricing measures such as congestion pricing.

"(7) Intermodal freight system strategies, including enhanced rail services, short sea shipping, and other strategies.

"(8) Parking policies.

"(9) Travel demand management projects.

"(10) Restriction of the use of certain roads, or lanes, by vehicles other than passenger buses and high-occupancy vehicles.

"(11) Reduction of vehicle idling, including idling associated with freight management, construction, transportation, and commuter operations.

"(12) Policies to encourage the use of retrofit technologies and early replacement of vehicles, engines and equipment to reduce greenhouse gas emissions from existing mobile sources.

"(13) Other projects that the Administrator finds reduce greenhouse gas emissions from mobile sources.

"(f) PUBLIC AVAILABILITY.—The Administrator shall publish, including by posting on the Environmental Protection Agency's website—

"(1) the goals and plans submitted under subsection (a); and

"(2) for each plan submitted under subsection (a)(2), an analysis of the anticipated effects of the plan on greenhouse gas emissions and oil consumption.

"(g) ENFORCEMENT.—If the Administrator finds that a State has failed to submit goals under subsection (a)(1), or to ensure the submission of a plan under subsection (a)(2), for any area in the State (irrespective of whether the area is a nonattainment area), the Administrator may impose a prohibition in accordance with section 179(b)(1) applicable to the area. The Administrator may not impose a prohibition under the preceding sentence, and no action may be brought by the Administrator or any other entity alleging a violation of this section, based on the content or adequacy of a goal or plan submitted under subsection (a)(1) or (a)(2).

"(h) COMPETITIVE GRANTS.—

"(1) GRANTS.—The Administrator, in consultation with the Secretary of Transportation, may award grants on a competitive basis to metropolitan planning organizations to develop or implement plans submitted under subsection (a)(2) or elements thereof.

"(2) PRIORITY.—In making grants under paragraph (1), the Administrator shall give priority to applicants based upon—

"(A) the amount of greenhouse gas emissions to be reduced on a total or per capita basis, as determined by the Administrator in consultation with the Secretary of Transportation; and

"(B) such other factors as the Administrator determines appropriate.

"(3) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated such sums as may be necessary.

"(i) DEFINITIONS.—In this section:

"(1) The term 'metropolitan planning organization' means a metropolitan planning organization, as such term is used in section 176 of the Clean Air Act.

"(2) The term 'scenario analysis' means an analysis that is conducted by identifying different trends and making projections based on those trends to develop a range of scenarios and estimates of how each scenario could improve access to goods and services, including access to employment, education, and health care (especially for elderly and economically disadvantaged communities), and could affect rates of—

"(A) vehicle miles traveled;

"(B) use of mobile source fuel by type, including electricity; and

"(C) greenhouse gas emissions from the mobile source sector.

"(j) LAND USE AUTHORITY.—Nothing in this section may be construed to—

"(1) infringe upon the existing authority of State or local governments to plan or control land use, or

"(2) provide or transfer authority over land use to any other entity.".

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Part B of title VIII of the Clean Air Act, as added by section 221 of this Act (and amended by section 121 of this Act), is further amended by adding after section 822 the following section:

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"(a) IN GENERAL.—There is established within the Environmental Protection Agency a SmartWay Transport Program to quantify, demonstrate and promote the benefits of technologies, products, fuels and operational strategies that reduce petroleum consumption, air pollution and greenhouse gas emissions from the mobile source sector.

"(b) GENERAL DUTIES.—Under the program established under this section, the Administrator shall carry out each of the following:

"(1) Development of measurement protocols to evaluate the energy consumption and greenhouse gas impacts from technologies and strategies in the mobile source sector, including those for passenger transport and goods movement.

"(2) Development of qualifying thresholds for certifying, verifying or designating energy-efficient, low-greenhouse gas SmartWay technologies and strategies for each mode of passenger transportation and goods movement.

"(3) Development of partnership and recognition programs to promote best practices and drive demand for energy-efficient, low-greenhouse gas transportation performance.

"(4) Promotion of the availability of and encourage the adoption of SmartWay certified or verified technologies and strategies and publication of the availability of financial incentives such as assistance from loan programs and other Federal and State incentives.

"(c) SMARTWAY TRANSPORT FREIGHT PARTNERSHIP.—The Administrator shall establish a SmartWay Transport Partnership program with shippers and carriers of goods to promote energy-efficient, low-greenhouse gas transportation. In carrying out such partnership, the Administrator shall undertake each of the following:

"(1) Certification of the energy and greenhouse gas performance of participating freight carriers, including those operating rail, trucking, marine, and other goods movement operations.

"(2) Publication of a comprehensive energy and greenhouse gas performance index of freight modes (including rail, trucking, marine and other modes of transporting goods) and individual freight companies so that shippers can choose to deliver their goods more efficiently.

"(3) Development of tools for—

"(A) carriers to calculate their energy and greenhouse gas performance, and

"(B) shippers to calculate the energy and greenhouse gas impacts of moving their products and to evaluate the relative impacts from transporting their goods by different modes and corporate carriers.

"(4) Provision of recognition opportunities for participating shipper and carrier companies demonstrating advanced practices and achieving superior levels of greenhouse gas performance.

"(d) IMPROVING FREIGHT GHG PERFORMANCE DATABASES.—The Secretary of the Treasury shall, in consultation with the Administrator, define and collect data on the physical and operational characteristics of the Nation's truck population, with special emphasis on data related to energy efficiency and greenhouse gas performance to inform the performance index in subsection (c)(2) of this section, and other means of goods transport as necessary, at least every 5 years as part of the economic census required under title 13 of the United States Code.

"(e) ESTABLISHMENT OF FINANCING PROGRAM.—The Administrator shall establish a SmartWay Financing Program to competitively award funding to eligible entities identified by the Administrator in accordance with the program requirements in subsection (g).

"(f) PURPOSE.—Under the SmartWay Financing Program, eligible entities shall—

"(1) use funds awarded by the Administrator to provide flexible loan and lease terms that increase approval rates and/or

lower the costs of loans and leases in accordance with guidance developed by the Administrator, and

"(2) make these loans and leases available to public and private entities for the purpose of adopting low-greenhouse gas technologies or strategies for the mobile source sector that are designated by the Administrator.

"(g) PROGRAM REQUIREMENTS.—The Administrator shall determine program design elements and requirements, including—

"(1) the type of financial mechanism with which to award funding, in the form of grants or contracts;

"(2) the designation of eligible entities to receive funding, including State, tribal, and local governments, regional organizations comprised of governmental units, nonprofit organizations, or for-profit companies;

"(3) criteria for evaluating applications from eligible entities, including anticipated—

"(A) cost-effectiveness of loan and/or lease program on a metric-ton-of-greenhouse gas-saved-per-dollar basis,

"(B) ability to promote the loan and/or lease program and associated technologies and strategies to target audience; and

"(4) reporting requirements for entities that receive awards, including—

"(A) actual cost-effectiveness and greenhouse gas savings from loan and/or lease program based on a methodology designated by the Administrator;

"(B) total number of applications and number of approved applications, and

"(C) terms granted to loan and lease recipients compared to prevailing market practices.

"(h) AUTHORIZATION OF APPROPRIATIONS.—Such sums as necessary are authorized to be appropriated to the Administrator to carry out this section.".

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Section 507(o) of the Energy Policy Act of 1992 (42 U.S.C. 13257) is amended by adding the following new paragraph at the end thereof:

"(3) The Secretary shall revise the rules under this subsection with respect to the types of alternative fueled vehicles required for compliance with this subsection to ensure those rules are consistent with any guidance issued pursuant to section 303 of this Act. ".

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(a) IN GENERAL.—Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 and following) is amended by adding after section 610 (as added by section 101 of this Act) the following:

"SEC. 611. FEDERAL ENERGY EFFICIENCY RESOURCE STANDARD FOR RETAIL ELECTRICITY AND NATURAL GAS DISTRIBUTORS.

"(a) STATEMENT OF FEDERAL POLICY.—The Federal energy efficiency resource standard established by this section sets nationwide minimum levels of electricity and natural gas savings to be achieved through utility efficiency programs, building energy codes, appliance standards, and related efficiency measures. In light of the cost-effective energy efficiency

opportunities that exist across the country in every sector of the economy, retail electricity distributors, retail natural gas distributors, and States should additionally consider energy efficiency as a resource in utility planning and procurement activities and should seek to achieve all energy efficiency that is available at lower cost than energy supply options.

"(b) DEFINITIONS.—In this section:

"(1) AFFILIATE.—The term 'affiliate' when used in relation to a person, means another person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership control with, such person, as determined under regulations promulgated by the Secretary.

"(2) ASHRAE, ANSI, AND IESNA.—The terms 'ASHRAE', 'ANSI', and 'IESNA' mean the American Society of Heating, Refrigerating and Air Conditioning Engineers, the American National Standards Institute, and the Illuminating Engineering Society of North America, respectively.

"(3) BASE QUANTITY.—The term 'base quantity', with respect to a retail electricity distributor or retail natural gas distributor, means, for each year for which a performance standard is established under subsection (d), the average annual quantity of electricity or natural gas delivered by the retail electricity distributor or retail natural gas distributor to retail customers during the 2 calendar years immediately preceding such year. In determining the base quantity of a retail natural gas distributor, natural gas delivered for purposes of electricity generation shall be excluded.

"(4) CHP SAVINGS.—The term 'CHP savings' means—

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

"(B) the increase in CHP system savings from upgrading or replacing, after the date of enactment of this section, a combined heat and power system that

commenced operation on or before the date of enactment of this section.

"(5) CHP SYSTEM SAVINGS.—The term 'CHP system savings' means the electric output, and the electricity saved due to the mechanical output, of a combined heat and power system, adjusted to reflect any increase in fuel consumption by that system as compared to the fuel that would have been required to produce an equivalent useful thermal energy output in a separate thermal-only system.

"(6) CODES AND STANDARDS SAVINGS.—

"(A) IN GENERAL.—The term 'codes and standards savings' means a reduction in end-use electricity or natural gas consumption in a retail electricity distributor or a retail natural gas distributor's service territory as a result of the adoption and implementation, after the date of enactment of this section, of new or revised appliance and equipment efficiency standards or building energy codes.

"(B) BASELINES.—In calculating codes and standards savings—

"(i) the baseline for calculating savings from building codes shall be the 2006 International Energy Conservation Code for residential buildings and the ASHRAE/ANSI/IESNA Standard 90.1–2004 for commercial buildings, or the relevant State building code in effect on date of enactment of this section, whichever is more stringent; and

"(ii) the baseline for calculating savings from appliance standards shall be the average efficiency of new appliances in the relevant category or categories prior to adoption and implementation of the new standard.

"(7) COMBINED HEAT AND POWER SYSTEM.—The term 'combined heat and power system' means a system that uses the same energy source both for the generation of electrical or mechanical power and the production of steam or another form of useful thermal energy, provided that—

"(A) the system meets such requirements relating to efficiency and other operating characteristics as the Secretary may promulgate by regulation; and

"(B) the net wholesale sales of electricity by the facility will not exceed 50 percent of total annual electric generation by the facility.

"(8) COST-EFFECTIVE.—The term 'cost-effective', with respect to an energy efficiency measure, means that the measure achieves a net present value of economic benefits over the life of the measure, both directly to the energy consumer and to the economy, that is greater than the net present value of the cost of the measure over the life of the measure, both directly to the energy consumer and to the economy.

"(9) CUSTOMER FACILITY SAVINGS.—The term 'customer facility savings' means a reduction in end-use electricity or natural gas consumption (including recycled energy savings) at a facility of an end-use consumer of electricity or natural gas served by a retail electricity distributor or natural gas distributor, as compared to—

"(A) in the case of a new facility, consumption at a reference facility of average efficiency;

"(B) in the case of an existing facility, consumption at such facility during a base period (which shall not be less than 1 year); or

"(C) in the case of new equipment, regardless of whether the new equipment replaces existing equipment at the end of the useful life of the existing equipment, consumption by new equipment of average efficiency of the same equipment type, provided that customer

savings under this subparagraph shall not be counted towards customer savings under subparagraph (A) or (B).

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

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

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

"(C) CHP savings; and

"(D) codes and standards savings of electricity.

"(11) NATURAL GAS SAVINGS.—The term 'natural gas savings' means reductions in natural gas consumption, relative to business-as-usual projections, achieved through measures implemented after the date of enactment of this section, limited to—

"(A) customer facility savings of natural gas, adjusted to reflect any associated increase in electricity consumption or consumption of other fuels at the facility;

"(B) reductions in leakage, operational losses, and consumption of natural gas fuel to operate a gas distribution system, achieved by a retail natural gas distributor, as compared to similar leakage, losses, and consumption during a base period (which shall not be less than 1 year); and

"(C) codes and standards savings of natural gas.

"(12) POWER POOL.—The term 'power pool' means an association of 2 or more interconnected electric systems that is recognized by the Commission as having an agreement to coordinate operations and planning for improved reliability and efficiencies, including a Regional Transmission Organization or an Independent System Operator.

"(13) RECYCLED ENERGY SAVINGS.—The term 'recycled energy savings' means a reduction in electricity or natural gas consumption that results from a modification of an industrial or commercial system that commenced operation before the date of enactment of this section, in order to recapture electrical, mechanical, or thermal energy that would otherwise be wasted.

"(14) REPORTING PERIOD.—The term 'reporting period' means—

"(A) calendar year 2012; and

"(B) each successive 2-calendar-year period thereafter.

"(15) RETAIL ELECTRICITY DISTRIBUTOR.—

"(A) IN GENERAL.—The term 'retail electricity distributor' means, for any given calendar year, an electric utility that owns or operates an electric distribution facility and, using the facility, delivered not less than 1,500,000 megawatt-hours of electric energy to electric consumers for purposes other than resale during the most recent 2-calendar-year period for which data are available.

"(B) INCLUSIONS AND LIMITATIONS.—For purposes of determining whether an electric utility qualifies as a retail electricity distributor under subparagraph (A)—

"(i) deliveries by any affiliate of an electric utility to electric consumers for purposes other than resale shall be considered to be deliveries by such electric utility; and

"(ii) deliveries by any electric utility to a lessee, tenant, or affiliate of such electric utility shall not be treated as deliveries to electric consumers.

"(16) RETAIL NATURAL GAS DISTRIBUTOR.—

"(A) IN GENERAL.—The term 'retail natural gas distributor' means, for any given calendar year, a local distribution company, as that term is defined in section 2(17) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301(17)), that delivered to natural gas consumers more than 5,000,000,000 cubic feet of natural gas during the most recent 2-calendar-year period for which data are available.

"(B) INCLUSIONS AND LIMITATIONS.—For purposes of determining whether a person qualifies as a retail natural gas distributor under subparagraph (A)—

"(i) deliveries of natural gas by any affiliate of a local distribution company to consumers for purposes other than resale shall be considered to be deliveries by such local distribution company; and

"(ii) deliveries of natural gas to a lessee, tenant, or affiliate of a local distribution company shall not be treated as deliveries to natural gas consumers.

"(17) THIRD-PARTY EFFICIENCY PROVIDER.—The term 'third-party efficiency provider' means any retailer, building owner, energy service company, financial institution or other commercial, industrial or non-profit entity that is capable of

providing electricity savings or natural gas savings in accordance with the requirements of subsections (e) and (f).

"(c) ESTABLISHMENT OF PROGRAM.—Not later than 1 year after the date of enactment of this section, the Secretary shall, by regulation, establish a program to implement and enforce the requirements of this section. In establishing such program, the Secretary shall, to the extent practicable, preserve the integrity, and incorporate best practices, of existing State energy efficiency programs.

"(d) PERFORMANCE STANDARDS.—

"(1) COMPLIANCE OBLIGATION.—Not later than April 1 of the calendar year immediately following each reporting period—

"(A) each retail electricity distributor shall submit to the Secretary a report, in accordance with regulations issued by the Secretary, demonstrating that it has achieved, by the end of each calendar year in the reporting period, cumulative electricity savings (adjusted to account for any attrition of savings measures implemented in prior years) that are equal to the applicable percentage of the base quantity of such retail electricity distributor for such year, as established under paragraph (2), (3), or (4) of this subsection; and

"(B) each retail natural gas distributor shall submit to the Secretary a report, in accordance with regulations issued by the Secretary, demonstrating that it has achieved, by the end of each calendar year in the reporting period, cumulative natural gas savings (adjusted to account for any attrition of savings measures implemented in prior years) that are equal to the applicable percentage of the base quantity of such retail natural gas distributor for such year, as established under paragraph (2), (3), or (4) of this subsection.

"(2) STANDARDS FOR 2012 THROUGH 2020.—For calendar years 2012 through 2020, the applicable percentages

are as follows:

"Calendar Year	Cumulative Electricity Savings Percentage	Cumulative Natural Gas Savings Percentage
2012	1.00	0.75
2013	2.00	1.50
2014	3.25	2.50
2015	4.50	3.50
2016	6.00	4.75
2017	7.50	6.00
2018	10.00	7.25
2019	12.50	8.50
2020	15.00	10.00

"(3) SUBSEQUENT YEARS.—

"(A) CALENDAR YEARS 2021 THROUGH 2030.—Not later than December 31, 2018, the Secretary shall promulgate regulations establishing performance standards (expressed as applicable percentages of base quantity for both cumulative electricity savings and cumulative natural gas savings) for calendar years 2021 through 2030.

"(B) SUBSEQUENT EXTENSIONS.—Except as provided in subparagraph (A), not later than December 31 of the penultimate reporting period for which performance standards have been set under this paragraph, the Secretary shall promulgate regulations establishing performance standards (expressed as applicable percentages of base quantity for both cumulative electricity savings and cumulative natural gas savings) for the 10-calendar-year period following the last calendar year for which performance standards previously were set.

"(C) REQUIREMENTS.—The Secretary shall set standards under this paragraph to reflect the highest level of cost-effective energy efficiency potential that is reasonably achievable, taking into account cost-effective energy savings achieved by leading retail electricity distributors and retail natural gas distributors,

opportunities for new codes and standard savings, technology improvements, and other indicators of cost-effective energy efficiency potential. In no case shall the applicable percentages for any calendar year be lower than those for calendar year 2020 (including any increase in the standard for calendar year 2020 pursuant to paragraph (4)).

"(4) MIDCOURSE REVIEW AND ADJUSTMENT OF STANDARDS.—Not later than December 31, 2014, and at 10-year intervals thereafter, the Secretary shall review the most recent standards established under paragraph (2) or (3) and shall, by regulation, increase the standards if the Secretary determines that additional cost-effective energy efficiency potential is reasonably achievable, taking into account the factors identified in paragraph (3)(C). If the Secretary revises standards pursuant to this paragraph, the regulations shall provide adequate lead time to ensure that compliance with the increased standards is feasible.

"(5) DELAY OF SUBMISSION FOR FIRST REPORTING PERIOD.—Notwithstanding paragraphs (1) and (2), for the 2012 reporting period, the Secretary may accept a request from a retail electricity distributor or a retail natural gas distributor to delay the required submission of documentation of some or all of the required savings for up to 2 years. The request for delay shall include a plan for coming into full compliance by the end of the 2013–2014 reporting period.

"(e) TRANSFERS OF ELECTRICITY OR NATURAL GAS SAVINGS.—

"(1) BILATERAL CONTRACTS FOR SAVINGS TRANSFERS.—Subject to the limitations of this paragraph, a retail electricity distributor or retail natural gas distributor may use electricity savings or natural gas savings purchased, pursuant to a bilateral contract, from another retail electricity distributor or retail natural gas distributor, a State, or a third-party efficiency provider to meet the applicable performance standard under subsection (d).

"(2) REQUIREMENTS.—Electricity or natural gas savings purchased and used for compliance pursuant to this paragraph shall be—

"(A) measured and verified in accordance with the procedures specified under subsection (f);

"(B) reported in accordance with subsection (d); and

"(C) achieved within the same State as is served by the retail electricity distributor or retail natural gas distributor.

"(3) EXCEPTION.—Notwithstanding paragraph (2)(C), a State regulatory authority may authorize a retail electricity distributor or a retail natural gas distributor regulated by such State regulatory authority to purchase savings achieved in a different State, provided that—

"(A) such savings are achieved within the same power pool; and

"(B) the State regulatory authority that regulates the purchaser oversees the measurement and verification of the savings pursuant to the procedures and standards applicable in the purchaser's State.

"(4) REGULATORY APPROVAL.—Nothing in this paragraph shall limit or affect the authority of a State regulatory authority to require a retail electricity distributor or retail natural gas distributor that is regulated by such State regulatory authority to obtain such State regulatory authority's authorization or approval of a contract for transfer of savings under this paragraph.

"(5) LIMITATIONS.—In the interest of optimizing achievement of cost-effective efficiency potential, the Secretary may prescribe such limitations as the Secretary determines appropriate with respect to the proportion of a retail electricity or natural gas distributor's compliance obligation, under the applicable performance standards under subsection

(d), that may be met using electricity or natural gas savings that are purchased under this paragraph.

"(f) MEASUREMENT AND VERIFICATION OF SAVINGS.—The regulations promulgated pursuant to subsection (b) shall include—

"(1) procedures and standards for defining and measuring electricity savings and natural gas savings that can be counted towards the performance standards set forth in subsection (d), which shall—

"(A) specify the types of energy efficiency and energy conservation measures that can be counted;

"(B) require that energy consumption estimates for customer facilities or portions of facilities in the applicable base and current years be adjusted, as appropriate, to account for changes in weather, level of production, and building area;

"(C) account for the useful life of measures;

"(D) include deemed savings values for specific, commonly-used measures;

"(E) allow for savings from a program to be estimated based on extrapolation from a representative sample of participating customers;

"(F) include procedures for counting CHP savings and recycled energy savings;

"(G) establish methods for calculating codes and standards energy savings, including the use of verified compliance rates;

"(H) count only measures and savings that are additional to business-as-usual practices;

"(I) except in the case of codes and standards savings, ensure that the retail electricity distributor or

retail natural gas distributor claiming the savings played a significant role in achieving the savings (including through the activities of a designated agent of the distributor or through the purchase of transferred savings);

"(J) avoid double-counting of savings used for compliance with this section, including transferred savings; and

"(K) include savings from programs administered by the retail electric or natural gas distributor that are funded by State, Federal, or other sources; and

"(2) procedures and standards for third-party verification of reported electricity savings or natural gas savings.

"(g) ENFORCEMENT AND JUDICIAL REVIEW.—

"(1) REVIEW OF RETAIL DISTRIBUTOR REPORTS.—The Secretary shall review each report submitted to the Secretary by a retail electricity distributor or retail natural gas distributor under subsection (d) to verify that the applicable performance standards under subsection (d) have been met. In determining compliance with the applicable performance standards, the Secretary shall exclude reported electricity savings or natural gas savings that are not adequately demonstrated and documented, in accordance with the regulations issued under subsections (d), (e), and (f).

"(2) PENALTY FOR FAILURE TO DOCUMENT ADEQUATE SAVINGS.—If a retail electricity distributor or a retail natural gas distributor fails to demonstrate compliance with an applicable performance standard under subsection (d), or to pay to the State an applicable alternative compliance payment under subsection (h)(4), the Secretary shall assess against the retail electricity distributor or retail natural gas distributor a civil penalty for each such failure in an amount equal to, as adjusted for inflation in accordance with such regulations as the Secretary may promulgate—

"(A) $50 per megawatt-hour of electricity savings or alternative compliance payment that the retail electricity distributor failed to achieve or make, respectively; or

"(B) $5 per million British thermal units of natural gas savings or alternative compliance payment that the retail natural gas distributor failed to achieve or make, respectively.

"(3) OFFSETTING STATE PENALTIES.—The Secretary shall reduce the amount of any penalty under paragraph (2) by the amount paid by the relevant retail electricity distributor or retail natural gas distributor to a State for failure to comply with the requirements of a State energy efficiency resource standard during the same compliance period, provided that the State standard is comparable in type to the Federal standard established under this section and is more stringent than the applicable performance standards under subsection (d).

"(4) ENFORCEMENT PROCEDURES.—The Secretary shall assess a civil penalty, as provided under paragraph (1), in accordance with the procedures described in section 333(d) of the Energy Policy and Conservation Act of 1954 (42 U.S.C. 6303).

"(5) JUDICIAL REVIEW.—Any person who will be adversely affected by a final action taken by the Secretary under this section, other than the assessment of a civil penalty, may use the procedures for review described in section 336(b) of the Energy Policy and Conservation Act (42 U.S.C. 6306). For purposes of this paragraph, references to a rule in section 336(b) of the Energy Policy and Conservation Act shall be deemed to refer also to all other final actions of the Secretary under this section other than the assessment of a civil penalty.

"(h) STATE ADMINISTRATION.—

"(1) IN GENERAL.—Upon receipt of an application from the Governor of a State (including, for purposes of this subsection, the Mayor of the District of Columbia), the Secretary may delegate to the State the administration of this

section within the State's territory if the Secretary determines that the State will implement an energy efficiency program that meets or exceeds the requirements of this section, including—

"(A) achieving electricity savings and natural gas savings at least as great as those required under the applicable performance standards established under subsection (d);

"(B) reviewing reports and verifying electricity savings and natural gas savings achieved in the State (including savings transferred from outside the State); and

"(C) in the case of failure to document adequate savings, requiring payment of alternative compliance payments that are at least as high as those required under subsection (g) and using such payments to implement cost-effective efficiency programs.

"(2) SECRETARIAL DETERMINATION.—The Secretary shall make a substantive determination approving or disapproving a State application, after public notice and comment, within 180 days of receipt of a complete application.

"(3) ALTERNATIVE MEASUREMENT AND VERIFICATION PROCEDURES AND STANDARDS.—As part of an application submitted under paragraph (1), a State may request to use alternative measurement and verification procedures and standards to those specified in subsection (f), provided the State demonstrates that such alternative procedures and standards provide a level of accuracy of measurement and verification at least equivalent to the Federal procedures and standards promulgated under subsection (f).

"(4) USE OF ALTERNATIVE COMPLIANCE PAYMENTS.—Alternative compliance payments collected by a State pursuant to this section shall be used by the State to administer its delegated authority under this section and to implement cost-effective energy efficiency programs. Such programs shall—

"(A) to the extent feasible, achieve electricity savings and natural gas savings in the State sufficient to make up the deficit associated with the alternative compliance payments; and

"(B) be measured and verified in accordance with the applicable procedures and standards under subsection (f) or paragraph (3) of this subsection, as the case may be.

"(5) REVIEW OF STATE IMPLEMENTATION.—

"(A) PERIODIC REVIEW.—Every 2 years, the Secretary shall review State implementation of this section for conformance with the requirements of this section in approximately one-half of the States that have received approval under this subsection to administer the program, such that each State shall be reviewed at least every 4 years. To facilitate such review, the Secretary may require the State to submit a report demonstrating its conformance with the requirements of this section, including—

"(i) reports submitted by retail electricity distributors and retail natural gas distributors to the State demonstrating compliance with applicable performance standards;

"(ii) the impact of such standards on projected electricity and natural gas demand within the State;

"(iii) an accounting of the State's use of alternative compliance payments and the resulting electricity savings and natural gas savings achieved; and

"(iv) such other information as the Secretary determines appropriate.

"(B) REVIEW UPON PETITION.—Notwithstanding subparagraph (A), upon receipt of a public petition containing credible allegation of substantial deficiencies, the Secretary shall promptly review a State's implementation of delegated authority under this section.

"(C) DEFICIENCIES.—If deficiencies are found in a review under this paragraph, the Secretary shall notify the State and direct it to correct such deficiencies and to report to the Secretary on progress within 180 days of the receipt of review results. If the deficiencies are substantial, the Secretary shall—

"(i) disallow such reported savings as the Secretary determines are not credible due to deficiencies;

"(ii) re-review the State not later than 2 years after the original review; and

"(iii) if substantial deficiencies remain uncorrected after the review provided for under clause (ii), revoke the authority of such State to administer the program established under this section.

"(6) CALLS FOR REVISION OF STATE APPLICATIONS.—As a condition of maintaining its delegated authority to administer this section, the Secretary may require a State to submit a revised application under paragraph (1) if the Secretary has—

"(A) promulgated new or revised performance standards under subsection (d);

"(B) promulgated new or substantially revised measurement and verification procedures and standards under subsection (f); or

"(C) otherwise substantially revised the program established under this section.

"(i) INFORMATION AND REPORTS.—In accordance with section 13 of the Federal Energy Administration Act of 1974 (15 U.S.C. 772), the Secretary may require any retail electricity distributor, any retail natural gas distributor, any third-party efficiency provider, or such other entities as the Secretary deems appropriate, to provide any information the Secretary determines appropriate to carry out this section.

"(j) STATE LAW.—Nothing in this section shall diminish or qualify any authority of a State or political subdivision of a State to adopt or enforce any law or regulation respecting electricity savings or natural gas savings, including any law or regulation establishing energy efficiency requirements more stringent than those under this section, provided that no such law or regulation may relieve any person of any requirement otherwise applicable under this section.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 and following) is amended by adding at the end of the items relating to title VI the following:

"Sec. 611. Federal energy efficiency resource standard.".

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The Secretary of Energy shall develop industrial plant energy efficiency certification standards as part of the existing Department of Energy program of developing American National Standards Institute (ANSI) accredited standards for industrial benchmarking, and shall seek ANSI accreditation of such standards.

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(a) THERMAL AND ELECTRIC ENERGY RECOVERY AWARDS.—The Secretary of Energy shall establish a program to make monetary awards to

the owners and operators of new and existing electric energy generation facilities or thermal energy production facilities using fossil or nuclear fuel, to encourage them to use innovative means of recovering any thermal energy that is a potentially useful byproduct of electric power generation or other processes to—

(1) generate additional electric energy; or

(2) make sales of thermal energy not used for electric generation, in the form of steam, hot water, chilled water, or desiccant regeneration, or for other commercially valid purposes.

(b) AMOUNT OF AWARDS.—

(1) ELIGIBILITY.—Awards shall be made under subsection (a) only for the use of innovative means that increase the net energy efficiency at the facility concerned in relationship to the current standard technology in use at similar facilities.

(2) AMOUNT.—The amount of an award made under subsection (a) shall equal an amount up to the value of 25 percent of the energy projected to be recovered or generated during the first 5 years of operation of the facility using the innovative energy recovery method, or such lesser amount that the Secretary determines to be the minimum amount that can cost-effectively stimulate such innovation.

(3) LIMITATION.—No person may receive an award under this section if a grant under the waste energy incentive grant program under section 373 of the Energy Policy and Conservation Act (42 U.S.C. 6343) is made for the same energy savings resulting from the same innovative method.

(c) REGULATORY STATUS.—The Secretary of Energy shall—

(1) assist State regulatory commissions to identify and make changes in State regulatory programs for electric utilities to provide appropriate regulatory status for thermal energy byproduct businesses of regulated electric utilities to encourage

those utilities to enter businesses making the sales referred to in subsection (a)(2); and

(2) encourage self-regulated utilities to enter businesses making the sales referred to in subsection (a)(2).

(d) ELIGIBILITY FOR SEED LOANS.—Owners and operators of electric energy generation and thermal energy production facilities shall be eligible for SEED Fund loans under subtitle D of title I to provide initial capital for entering into businesses involving sales referred to in subsection (a)(2).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy such sums as are necessary for the purposes of this section.

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(a) COMPETITION REQUIREMENTS FOR TASK OR DELIVERY ORDERS UNDER ENERGY SAVINGS PERFORMANCE CONTRACTS.—

(1) COMPETITION REQUIREMENTS.—Subsection (a) of section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)) is amended by adding at the end the following paragraph:

"(3) COMPETITION REQUIREMENTS FOR TASK OR DELIVERY ORDERS.—

"(A) The head of a Federal agency may issue a task or delivery order for energy savings performance contract services by—

"(i) reviewing the qualifications of two or more contractors that have been competitively awarded

multiple-award indefinite-delivery, indefinite-quantity contracts to provide energy savings performance services;

"(ii) selecting two or more contractors (from among those reviewed under clause (i)) to conduct discussions concerning the contractors' respective qualifications to implement potential energy conservation measures, including requesting references demonstrating experience on similar efforts and the resulting energy savings of such similar efforts;

"(iii) selecting and authorizing one or more contractors (from among those selected under clause (ii)) to conduct a site survey or investigation and a feasibility design and study for the purpose of allowing each contractor to submit a firmed-fixed price proposal to implement specific energy conservation measures;

"(iv) negotiating a task or delivery order for energy savings performance contracting services with one of the contractors selected under clause (iii) based on the energy conservation measures identified in the site survey or investigation and feasibility design and study; and

"(v) issuing a task or delivery order for energy savings performance contracting services to such contractor.

"(B) The issuance of a task or delivery order for energy savings performance contracting services pursuant to subparagraph (A) is deemed to satisfy the task and delivery order competition requirements in section 2304c(d) of title 10, United States Code. and section 303J(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253j).

"(C) The Secretary may issue guidance as necessary to agencies issuing task or delivery orders pursuant to subparagraph (A).".

(2) EFFECTIVE DATE.—The amendment made by subsection (a) is inapplicable to task or delivery orders issued before the date of enactment of this section.

(b) INCLUSION OF CONTRACTS FOR RENEWABLE ENERGY.—Section 801(a)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287) is amended—

(1) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (F), (G), and (H), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph:

"(E) CONTRACTS FOR RENEWABLE ENERGY FROM PUBLIC UTILITY SERVICES.—Notwithstanding section 501(b)(1)(B) of title 40, United States Code, a contract for renewable energy entered into in support of an Energy Savings Performance Contract may be made for a period of not more than 30 years.".

(c) INCLUSION OF INSTALLATION OF RENEWABLE ENERGY SYSTEMS.—Section 804(2)(B) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)(B)) is amended to read as follows:

> "(B) the increased efficient use of an existing energy source by cogeneration or heat recovery installed on the Federal facility site, and installation of renewable energy systems;".

(d) INCLUSION OF THERMAL RENEWABLE ENERGY.—Section 203 of the Energy Policy Act of 2005 (42 U.S.C. 15852) is amended—

> (1) in subsection (a), by striking "electric"; and
>
> (2) in subsection (b)(2), by inserting "or thermal" after "electric".

(e) CREDIT FOR RENEWABLE ENERGY PRODUCED AND USED ON SITE.—Subsection (c) of section 203 of the Energy Policy Act of 2005 (42 U.S.C. 15852) is amended to read as follows:

"(c) CALCULATION.—Renewable energy produced at a Federal facility, on Federal lands, or on Indian lands, shall be calculated separately from renewable energy consumed at a Federal facility, and each may be used to comply with the consumption requirement under subsection (a).".

(f) FINANCING FLEXIBILITY.—Section 801(a)(2)(F) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)(F)) is amended by striking "In" and inserting "Notwithstanding any other provision of law, in".

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Section 399A of the Energy Policy and Conservation Act (42 U.S.C. 6371h–1) is amended—

(1) in subsection (a)(5), by striking "or a designee" and inserting "a not-for-profit hospital or not-for-profit inpatient health care facility, or a designated agent";

(2) in subsection (c)(1), by striking subparagraph (C);

(3) in subsection (f)(3)(A), by striking "$1,000,000" and inserting "$2,500,000"; and

(4) in subsection (i)(1), by striking "$250,000,000 for each of fiscal years 2009 through 2013" and inserting "such sums as may be necessary for each of fiscal years 2010 through 2015".

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This title may be cited as the "Safe Climate Act".

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

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"(a) FINDINGS.—The Congress finds as follows:

"(1) Global warming poses a significant threat to the national security, economy, public health and welfare, and environment of the United States, as well as of other nations.

"(2) Reviews of scientific studies, including by the Intergovernmental Panel on Climate Change and the National Academies, demonstrate that global warming is the result of the combined anthropogenic greenhouse gas emissions from numerous sources of all types and sizes. Each increment of emission, when combined with other emissions, causes or contributes materially to the acceleration and extent of global warming and its adverse effects for the lifetime of such gas in the atmosphere. Accordingly, controlling emissions in small as well as large amounts is essential to prevent, slow the pace of, reduce the threats from, and mitigate global warming and its adverse effects.

"(3) Because they induce global warming, greenhouse gas emissions cause or contribute to injuries to persons in the United States, including—

"(A) adverse health effects such as disease and loss of life;

"(B) displacement of human populations;

"(C) damage to property and other interests related to ocean levels, acidification, and ice changes;

"(D) severe weather and seasonal changes;

"(E) disruption, costs, and losses to business, trade, employment, farms, subsistence, aesthetic enjoyment of the environment, recreation, culture, and tourism;

"(F) damage to plants, forests, lands, and waters;

"(G) harm to wildlife and habitat;

"(H) scarcity of water and the decreased abundance of other natural resources;

"(I) worsening of tropospheric air pollution;

"(J) substantial threats of similar damage; and

"(K) other harm.

"(4) That many of these effects and risks of future effects of global warming are widely shared does not minimize the adverse effects individual persons have suffered, will suffer, and are at risk of suffering because of global warming.

"(5) That some of the adverse and potentially catastrophic effects of global warming are presently at risk of occurring and not a certainty does not negate the harm persons suffer from actions that increase the likelihood, extent, and severity of such future impacts.

"(6) Nations of the world look to the United States for leadership in addressing the threat of and harm from global warming. Full implementation of this Act is critical to engage other nations in an international effort to mitigate the threat of and harm from global warming.

"(7) Global warming and its adverse effects are now occurring and are likely to continue and increase in magnitude, and to do so at a greater and more harmful rate, unless this Act is fully implemented and enforced in an expeditious manner.

"(b) PURPOSE.—It is the general purpose of this Act to help prevent, reduce the pace of, mitigate, and remedy global warming and its adverse effects. To fulfill the purposes of this Act, it is necessary to—

"(1) require the timely fulfillment of all governmental acts and duties, both substantive and procedural, and the prompt

compliance of covered entities with the requirements of this Act;

"(2) establish and maintain an effective, transparent, and fair market for emissions allowances and preserve the integrity of the cap on emissions and of offset credits;

"(3) advance the production and deployment of clean energy and efficiency technologies; and

"(4) ensure effective enforcement of this Act by citizens, states, and all levels of government because each violation of this Act is likely to result in an additional increment of greenhouse gas emission that will slow the pace of implementation of this Act's goals and cause or contribute to global warming and its adverse effects.

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"The purpose of this title and title VIII of this Act is to reduce steadily the quantity of United States greenhouse gas emissions such that—

"(1) in 2012, the quantity of United States greenhouse gas emissions does not exceed 97 percent of the quantity of United States greenhouse gas emissions in 2005;

"(2) in 2020, the quantity of United States greenhouse gas emissions does not exceed 80 percent of the quantity of United States greenhouse gas emissions in 2005;

"(3) in 2030, the quantity of United States greenhouse gas emissions does not exceed 58 percent of the quantity of United States greenhouse gas emissions in 2005; and

"(4) in 2050, the quantity of United States greenhouse gas emissions does not exceed 17 percent of the quantity of United States greenhouse gas emissions in 2005.

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"(a) IN GENERAL.—Not later than 2 years after the date of enactment of this title, pursuant to section 721(e), the Administrator shall promulgate regulations to cap and reduce annually the greenhouse gas emissions of capped sources each calendar year beginning in 2012 such that—

"(1) in 2012, the quantity of greenhouse gas emissions from capped sources does not exceed 97 percent of the quantity of greenhouse gas emissions from such sources in 2005;

"(2) in 2020, the quantity of greenhouse gas emissions from capped sources does not exceed 80 percent of the quantity of greenhouse gas emissions from such sources in 2005;

"(3) in 2030, the quantity of greenhouse gas emissions from capped sources does not exceed 58 percent of the quantity of greenhouse gas emissions from such sources in 2005; and

"(4) in 2050, the quantity of greenhouse gas emissions from capped sources does not exceed 17 percent of the quantity of greenhouse gas emissions from such sources in 2005.

"(b) DEFINITION.—For purposes of this section, the term 'greenhouse gas emissions from such sources in 2005' means emissions for which section 722 would have required emission allowances to be held if the requirements of this title for the specified year had been in effect in 2005.

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"For the purposes of decreasing the likelihood of catastrophic climate change, preserving tropical forests, building capacity to generate offset credits, and facilitating international action on global warming, the

Administrator shall set aside the percentage specified in section 781 of the quantity of emission allowances established under section 721(a) for each year, to be used to provide incentives to reduce deforestation in developing countries pursuant to part E. In 2020, the activities to reduce deforestation shall provide greenhouse gas reductions in an amount equal to an additional 10 percentage points of reductions from United States greenhouse gas emissions in 2005. The Administrator shall transfer these allowances to countries that enter into and implement agreements or arrangements relating to reduced deforestation as described in section 754(a)(2).

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"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this title, the Administrator shall offer to enter into a contract with the National Academy of Sciences (in this section referred to as the 'Academy') under which the Academy shall, not later than July 1, 2012, and every 4 years thereafter, submit to Congress and the Administrator a report that includes—

"(1) an analysis of the latest scientific information and data relevant to global climate change;

"(2) an analysis of the technological feasibility of achieving additional reductions in greenhouse gas emissions; and

"(3) an analysis of the status of worldwide greenhouse gas reduction efforts, including implementation of Safe Climate Act and other policies, both domestic and international, for reducing greenhouse gas emissions, preventing dangerous atmospheric concentrations of greenhouse gases, preventing a dangerous increase in global average temperature and reducing vulnerability to the impacts of climate change.

"(b) EXCEPTION.—Paragraphs (2) and (3) of subsection (a) shall not apply to the first report submitted under subsection (a).

"(c) LATEST SCIENTIFIC INFORMATION.—The analysis required under subsection (a)(1) shall—

"(1) address existing scientific information and reports, including the most recent assessment report of the Intergovernmental Panel on Climate Change, greenhouse gas emissions trends identified by the Energy Information Agency, data from the National Oceanic and Atmospheric Administration, data from the Climate Change Science Program, data from the National Aeronautics and Space Administration, data from the Environmental Protection Agency including the Agency's Greenhouse Gas Inventory, and the European Union's global temperature data assessment; and

"(2) include a description of trends and projections for—

"(A) global and country-specific annual emissions of greenhouse gases, and cumulative emissions produced between 1850 and the present, including—

"(i) global cumulative emissions of anthropogenic greenhouse gases;

"(ii) global annual emissions of anthropogenic greenhouse gases; and

"(iii) by country, annual and cumulative anthropogenic emissions of greenhouse gases for the top 50 emitting nations;

"(B) significant changes, both globally and by country, in annual nonanthropogenic greenhouse gas emissions including any accelerated and large scale releases of greenhouse gases from natural sources, such as from melting permafrost, large scale natural forest decline, or a decline in greenhouse gas absorption by the oceans;

"(C) global atmospheric concentrations of greenhouse gases, expressed in annual concentration units as well as carbon dioxide equivalents based on 100-year global warming potentials;

"(D) major climate forcing factors, such as aerosols;

"(E) global average temperature, expressed as seasonal and annual averages in land, ocean, and land-plus-ocean averages; and

"(F) sea level rise;

"(3) describe increased risks to natural systems and society that would result from an increase in global average temperature 3.6 degrees Fahrenheit (2 degrees Celsius) above the pre-industrial average, as well as any other temperature thresholds the Academy deems appropriate;

"(4) assess the impacts of global climate change on—

"(A) human populations, including impacts on public health, economic livelihoods, and human infrastructure, and displacement due to flooding;

"(B) freshwater systems, including water resources for human consumption and agriculture and natural and managed ecosystems, flood and drought risks, and relative humidity;

"(C) the carbon cycle, including impacts related to the thawing of permafrost and terrestrial and ocean carbon sinks;

"(D) species, including impacts on species abundance, phenology, and distribution;

"(E) oceans and ocean ecosystems, including effects on sea level rise, ocean acidity, ocean temperatures, the health of coral reefs, freshwater influx on ocean circulation, and other indicators of ocean ecosystem health;

"(F) the cryosphere, including effects on ice sheet mass balance, mountain glacier mass balance, and sea-ice extent and volume;

"(G) extreme weather events, including effects on intense precipitation, tropical cyclones, and severe heat waves;

"(H) agriculture and forest systems, including effects on potential growing season, distribution, and yield; and

"(I) any other indicators the Academy deems appropriate; and

"(5) in assessing risks and impacts, use a risk management framework, including both qualitative and quantitative measures, to assess the observed and projected impacts of current and future climate change, accounting for—

"(A) both monetized and non-monetized losses;

"(B) potential nonlinear, abrupt, or essentially irreversible changes in the climate system;

"(C) potential nonlinear increases in the cost of impacts;

"(D) potential low-probability, high impact events; and

"(E) whether impacts are transitory or essentially permanent.

"(d) TECHNOLOGICAL INFORMATION.—The analysis required under subsection (a)(2) shall—

"(1) address existing technological information and reports, including the most recent reports by the Department of Energy and the International Energy Agency;

"(2) assess the current and future projected deployment of technologies and practices in the United States that reduce or limit greenhouse gas emissions, including—

"(A) technologies for capture and sequestration of greenhouse gases;

"(B) technologies to improve energy efficiency;

"(C) low or zero-greenhouse gas emitting energy technologies;

"(D) low or zero-greenhouse gas emitting fuels;

"(E) biological sequestration practices and technologies; and

"(F) any other technologies the Academy deems relevant; and

"(3) assess and compare the emissions reduction potential, commercial viability, market penetration, and deployment of the technologies described in paragraph (2), including—

"(A) an assessment of the need for additional research and development, including publicly funded research and development;

"(B) an assessment of the state of commercial deployment, including, where appropriate, a comparison to the cost and level of deployment of conventional fossil fuel-fired energy technologies and devices; and

"(C) an assessment of the existence of any substantial technological, legal, or market-based barriers to commercial deployment.

"(e) STATUS OF GREENHOUSE GAS REDUCTION EFFORTS.—The analysis required under subsection (a)(3) shall address—

"(1) whether the programs under Safe Climate Act and other Federal statutes are driving sufficient United States greenhouse gas emissions reductions to meet the emissions reduction targets in section 702; and

"(2) whether United States actions, in concert with international action, are sufficient to avoid—

"(A) atmospheric greenhouse gas concentrations above 450 parts per million carbon dioxide equivalent; and

"(B) global average surface temperature 3.6 degrees Fahrenheit (2 degrees Celsius) above the pre-industrial average, or such other temperature thresholds as the Academy deems appropriate.

"(f) RECOMMENDATIONS.—

"(1) LATEST SCIENTIFIC INFORMATION.—Based on the analysis described in subsection (a)(1), the Academy shall identify actions that could be taken to better—

"(A) characterize changes in the earth-climate system and impacts of global climate change;

"(B) inform decision making and actions related to global climate change;

"(C) mitigate risks to natural and social systems; and

"(D) design policies to better account for climate risks.

"(2) TECHNOLOGICAL INFORMATION.—Based on the analysis described in subsection (a)(2), the Academy shall identify—

"(A) additional emissions reductions that may be possible as a result of technologies described in the analysis;

"(B) barriers to the deployment of such technologies; and

"(C) actions that could be taken to speed deployment of such technologies.

"(3) STATUS OF GREENHOUSE GAS REDUCTION EFFORTS.—Based on the analysis described in subsection (a)(3), the Academy shall identify—

"(A) the quantity of additional reductions required to meet the emissions reduction targets in section 702; and

"(B) the quantity of additional reductions in global greenhouse gas emissions needed to avoid the identified concentration and temperature thresholds.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary.

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"Not later than July 1, 2017, and every 4 years thereafter—

"(1) the President shall direct relevant Federal agencies to use existing statutory authority to take appropriate actions identified in the report submitted under section 705 by the National Academy of Sciences in the previous year and to address any shortfalls identified in such report; and

"(2) in the event that the National Academy of Sciences has concluded, in the most recent report submitted under section 705, that the United States will not achieve the necessary domestic greenhouse gas emissions reductions, or that global actions will not maintain safe global average surface temperature and atmospheric greenhouse gas concentration thresholds, the President shall submit to Congress a plan identifying domestic and international actions that will achieve necessary additional greenhouse gas reductions, including any recommendations for legislative action.

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"(a) GREENHOUSE GASES.—For purposes of this title, the following are greenhouse gases:

"(1) Carbon dioxide.

"(2) Methane.

"(3) Nitrous oxide.

"(4) Sulfur hexafluoride.

"(5) Hydrofluorocarbons emitted as a byproduct.

"(6) A perfluorocarbon.

"(7) Nitrogen trifluoride.

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

"(b) DETERMINATION ON ADMINISTRATOR'S INITIATIVE.—The Administrator shall, by rule—

"(1) designate another anthropogenic gas as a greenhouse gas, except as provided in paragraph (3), if the Administrator determines that 1 metric ton of the gas makes the same or greater contribution to global warming over 100 years as 1 metric ton of carbon dioxide;

"(2) determine the carbon dioxide equivalent value for each gas with respect to which the Administrator makes an affirmative determination under paragraph (1);

"(3) for each gas described in paragraph (1) that is used as a substitute for a class I or class II substance under title VI, determine whether and the extent to which that gas, when used as a product, should be regulated under section 619 and specify appropriate compliance obligations under section 619; and

"(4) specify the appropriate compliance obligations under this title for each gas designated as a greenhouse gas under paragraph (1).

"(c) PETITIONS TO DESIGNATE A GREENHOUSE GAS.—

"(1) IN GENERAL.—Any person may petition the Administrator to designate as a greenhouse gas any anthropogenic gas 1 metric ton of which makes the same or greater contribution to global warming over 100 years as 1 metric ton of carbon dioxide.

"(2) CONTENTS OF PETITION.—The petitioner shall provide sufficient data, as specified by rule by the Administrator, to demonstrate that the gas is likely to be a greenhouse gas and is likely to be produced, imported, used, or emitted in the United States. To the extent practicable, the petitioner shall also identify producers, importers, distributors, users, and emitters of the gas in the United States.

"(3) REVIEW AND ACTION BY THE ADMINISTRATOR.—Not later than 90 days after receipt of a petition under paragraph (2), the Administrator shall determine whether the petition is complete and notify the petitioner and the public of the decision.

"(4) ADDITIONAL INFORMATION.—The Administrator may require producers, importers, distributors, users, or emitters of the gas to provide information on the contribution of the gas to global warming over 100 years compared to carbon dioxide.

"(5) TREATMENT OF PETITION.—For any substance used as a substitute for a class I or class II substance under title VI, the Administrator may elect to treat a petition under this

subsection as a petition to list the substance as a class II, group II substance under section 619, and may require the petition to be amended to address listing criteria promulgated under that section.

"(6) DETERMINATION.—Not later than 2 years after receipt of a complete petition, the Administrator shall, after notice and an opportunity for comment—

"(A) issue a determination that 1 metric ton of the gas does not make a contribution to global warming over 100 years that is equal to or greater than that made by 1 metric ton of carbon dioxide and an explanation of the decision, which shall be published in the Federal Register; or

"(B) determine that 1 metric ton of the gas makes a contribution to global warming over 100 years that is equal to or greater than that made by 1 metric ton of carbon dioxide, and take the actions described in subsection (b)(1), (2), (3), and (4) with respect to such gas.

"(7) GROUNDS FOR DENIAL.—The Administrator may not deny a petition under this subsection solely on the basis of inadequate Environmental Protection Agency resources or time for review.

"(d) MANUFACTURING AND EMISSION NOTICES.—

"(1) NOTICE REQUIREMENT.—

"(A) IN GENERAL.—Effective 24 months after the date of enactment of this title, no person may manufacture or import into the United States a fluorinated gas, or emit a significant quantity, as determined by the Administrator, of any fluorinated gas that is generated as a byproduct during the production or use of another fluorinated gas, unless—

"(i) the gas is designated as a greenhouse gas under this section;

"(ii) the Administrator has determined that 1 metric ton of such gas does not make a contribution to global warming that is equal to or greater than that made by 1 metric ton of carbon dioxide; or

"(iii) the person taking the manufacture, importation, or emission action has submitted to the Administrator, on or before the start of such manufacture, importation, or emission, a notice of such person's manufacture, importation, or emission of such gas, and the Administrator has not determined that that notice or a substantially similar notice is incomplete.

"(B) ALTERNATIVE COMPLIANCE.—For a gas that is a substitute for a class I or class II substance under title VI and either has been listed as acceptable for use under section 612 or is currently subject to evaluation under section 612, the Administrator may accept the notice and information provided pursuant to that section as fulfilling the obligation under clause (iii) of subparagraph (B).

"(2) REVIEW AND ACTION BY THE ADMINISTRATOR.—

"(A) COMPLETENESS.—Upon receipt of notice under paragraph (1)(A)(iii) or (B), the Administrator shall, not later than 90 days after the date of enactment of this title, determine whether the notice is complete.

"(B) DETERMINATION.— If the Administrator determines that the notice is complete, the Administrator shall, after notice and an opportunity for comment, not later than 12 months after receipt of the notice—

"(i) issue a determination that 1 metric ton of the gas does not make a contribution to global

warming over 100 years that is equal to or greater than that made by 1 metric ton of carbon dioxide and an explanation of the decision, which shall be published in the Federal Register; or

"(ii) determine that 1 metric ton of the gas makes a contribution to global warming over 100 years that is equal to or greater than that made by 1 metric ton of carbon dioxide, and take the actions described in subsection (b)(1), (2), (3), and (4) with respect to such gas.

"(e) REGULATIONS.—Not later than one year after the date of enactment of this title, the Administrator shall promulgate regulations to carry out this section. Such regulations shall include—

"(1) requirements for the contents of a petition submitted under subsection (c);

"(2) requirements for the contents of a notice required under subsection (d); and

"(3) methods and standards for evaluating the carbon dioxide equivalent value of a gas.

"(f) GASES REGULATED UNDER TITLE VI.—The Administrator shall not designate a gas as a greenhouse gas under this section to the extent that the gas is regulated under title VI.

"(g) SAVINGS CLAUSE.—Nothing in this section shall be interpreted to relieve any person from complying with the requirements of section 612.

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"(a) INITIAL VALUE.—Except as provided by the Administrator under this section or section 711, the carbon dioxide equivalent value of greenhouse gases for purposes of this Act shall be as follows:

CARBON DIOXIDE EQUIVALENT OF 1 TON OF LISTED GREENHOUSE GASES

Greenhouse gas (1 metric ton)	Carbon dioxide equivalent (metric tons)
Carbon dioxide	1
Methane	25
Nitrous oxide	298
HFC-23	14,800
HFC-125	3,500
HFC-134a	1,430
HFC-143a	4,470
HFC-152a	124
HFC-227ea	3,220
HFC-236fa	9,810
HFC-4310mee	1,640
CF_4	7,390
C_2F_6	12,200
C_4F_{10}	8,860
C_6F_{14}	9,300
SF_6	22,800
NF_3	17,200

"(b) PERIODIC REVIEW.—

"(1) Not later than February 1, 2017, and (except as provided in paragraph (3)) not less than every 5 years thereafter, the Administrator shall—

"(A) review and, if appropriate, revise the carbon dioxide equivalent values established under this section or section 711(b)(2), based on a determination of the number of metric tons of carbon dioxide that makes the same contribution to global warming over 100 years as 1 metric ton of each greenhouse gas; and

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

"(2) A revised determination published in the Federal Register under paragraph (1)(B) shall take effect for greenhouse gas emissions starting on January 1 of the first calendar year starting at least 9 months after the date on which the revised determination was published.

"(3) The Administrator may decrease the frequency of review and revision under paragraph (1) if the Administrator determines that such decrease is appropriate in order to synchronize such review and revision with any similar review process carried out pursuant to the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992, or to an agreement negotiated under that convention, except that in no event shall the Administrator carry out such review and revision any less frequently than every 10 years.

"(c) METHODOLOGY.—In setting carbon dioxide equivalent values, for purposes of this section or section 711, the Administrator shall take into account publications by the Intergovernmental Panel on Climate Change or a successor organization under the auspices of the United Nations Environmental Programme and the World Meteorological Organization.

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

"(1) CLIMATE REGISTRY.—The term 'Climate Registry' means the greenhouse gas emissions registry jointly established and managed by more than 40 States and Indian tribes in 2007 to collect high-quality greenhouse gas emission data from facilities, corporations, and other organizations to support various greenhouse gas emission reporting and reduction policies for the member States and Indian tribes.

"(2) REPORTING ENTITY.—The term 'reporting entity' means—

"(A) a covered entity;

"(B) an entity that—

"(i) would be a covered entity if it had emitted in 2008 or any subsequent year more than 25,000 tons of carbon dioxide equivalent; and

"(ii) has emitted in 2008 or any subsequent year more than 10,000 tons of carbon dioxide equivalent;

"(C) any other entity that emits a greenhouse gas, if the Administrator determines that reporting under this section by such entity will help achieve the purposes of this title or title VIII; or

"(D) any vehicle fleet with emissions of more than 25,000 tons of carbon dioxide equivalent on an annual basis, if the Administrator determines that the inclusion of such fleet will help achieve the purposes of this title or title VIII.

"(b) REGULATIONS.—

"(1) IN GENERAL.—Not later than 6 months after the date of enactment of this title, the Administrator shall issue regulations establishing a Federal greenhouse gas registry. Such regulations shall—

"(A) require reporting entities to submit to the Administrator data on—

"(i) greenhouse gas emissions in the United States;

"(ii) the production and manufacture in the United States, and importation into the United States, of fuels and other products the uses of which result in greenhouse gas emissions; and

"(iii) the sequestration of greenhouse gases;

"(B) require covered entities to submit to the Administrator data sufficient to ensure compliance with the requirements of this title;

"(C) require reporting of electricity delivered to industrial sources in energy-intensive industries;

"(D) ensure the completeness, consistency, transparency, accuracy, precision, and reliability of such data;

"(E) take into account the best practices from the most recent Federal, State, tribal, and international protocols for the measurement, accounting, reporting, and verification of greenhouse gas emissions, including protocols from the Climate Registry and other mandatory State or multistate authorized programs;

"(F) take into account the latest scientific research;

"(G) require that, for covered entities with respect to greenhouse gases for which they are required to hold emission allowances under section 722, and, to the extent determined to be appropriate by the Administrator, for covered entities with respect to other greenhouse gases and for other reporting entities, submitted data are based on—

"(i) continuous monitoring systems for fuel flow or emissions, such as continuous emission monitoring systems;

"(ii) alternative systems that are demonstrated as providing data with the same precision, reliability, accessibility, and timeliness as data provided by continuous monitoring systems for fuel flow or emissions; or

"(iii) alternative methodologies that are demonstrated to provide data with precision, reliability, accessibility, and timeliness as similar as is technically feasible to that of data generally provided by continuous monitoring systems for fuel flow or emissions, if the Administrator determines that, with respect to a reporting entity, there is no continuous monitoring system or alternative system described in clause (i) or (ii) that is technically feasible.

"(H) require that the Administrator, in determining the extent to which the requirement to use systems or methodologies in accordance with subparagraph (G) is appropriate for reporting entities other than covered entities or greenhouse gas for which emission allowances are not required to be held, consider the cost of using such systems and methodologies, and of using other systems and methodologies that are available and suitable, for quantifying the emissions involved in light of the purposes of this title, including the goal of collecting consistent entity-wide data;

"(I) include methods for minimizing double reporting and avoiding irreconcilable double reporting of greenhouse gas emissions;

"(J) establish measurement protocols for carbon capture and sequestration systems, including those where enhanced hydrocarbon recovery operations occur, taking into consideration the regulations promulgated under section 813;

"(K) require that reporting entities provide the data required under subparagraph (A) in reports submitted electronically to the Administrator, in such form and containing such information as may be required by the Administrator;

"(L) include requirements for keeping records supporting or related to, and protocols for auditing, submitted data;

"(M) establish consistent policies for calculating carbon content and greenhouse gas emissions for each type of fossil fuel with respect to which reporting is required;

"(N) subsequent to implementation of policies developed under subparagraph (M), provide for immediate dissemination, to States, Indian tribes, and on the Internet, of all data reported under this section as

soon as practicable after electronic audit by the Administrator and any resulting correction of data, except that data shall not be disseminated under this subparagraph if—

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

"(ii) it is confidential business information that cannot be derived from information that is otherwise publicly available and that would cause significant calculable competitive harm if published, except that—

"(I) data relating to greenhouse gas emissions, including any upstream or verification data from reporting entities, shall not be considered to be confidential business information;

"(II) data that is confidential business information shall be provided to a State or Indian tribe within whose jurisdiction the reporting entity is located, if the Administrator determines that such State or Indian tribe has in effect protections for confidential business information that are equivalent to protections applicable to the Federal Government;

"(O) prescribe methods by which the Administrator shall, in cases in which satisfactory data are not submitted to the Administrator for any period of time, estimate emission levels—

"(i) for covered entities with respect to greenhouse gas emissions for which they are required to hold emission allowances under section 722—

"(I) with a conservative estimate of the highest emission levels that may have occurred during the period for which data are missing; or

"(II) to the extent the Administrator considers appropriate, with an estimate of emission levels assuming the unit is emitting at a maximum potential level during the period, in order to ensure that emissions are not underreported and to create a strong incentive for meeting data monitoring and reporting requirements; and

"(ii) for covered entities with respect to greenhouse gas emissions for which they are not required to hold emission allowances under section 722 and for other reporting entities, with a reasonable estimate of the emission levels that may have occurred during the period for which data are missing;

"(P) require an appropriate certification, by the designated representative for the reporting entity and as determined by the Administrator, of accurate and complete accounting of greenhouse gas emissions; and

"(Q) include requirements for other data necessary for accurate and complete accounting of greenhouse gas emissions, as determined by the Administrator, including data for quality assurance of monitoring systems, monitors and other measurement devices, and other data needed to verify reported emissions.

"(2) TIMING.—

"(A) CALENDAR YEARS 2007 THROUGH 2010.— For a base period of calendar years 2007 through 2010, each reporting entity shall submit annual data required under this section to the Administrator not later than March 31, 2011. The Administrator may waive or

modify reporting requirements for calendar years 2007 through 2010 for categories of reporting entities if the Administrator determines that the reporting entities did not keep data or records necessary to meet reporting requirements. The Administrator may, in addition to or in lieu of such requirements, collect information on energy consumption and production.

"(B) SUBSEQUENT CALENDAR YEARS.—For calendar year 2011 and each subsequent calendar year, each reporting entity shall submit quarterly data required under this section to the Administrator not later than 60 days after the end of the applicable quarter, except when the data is already being reported to the Administrator on an earlier timeframe for another program.

"(3) WAIVER OF REPORTING REQUIREMENTS.—The Administrator may waive reporting requirements under this section for specific entities if the Administrator determines that sufficient and equally or more reliable verified and timely data are available to the Administrator and the public on the Internet under other mandatory statutory requirements.

"(4) ALTERNATIVE THRESHOLD.—The Administrator may, by rule, establish applicability thresholds for reporting under this section using alternative metrics and levels, provided that such metrics and levels are easier to administer and cover the same size and type of sources as the threshold defined in this section.

"(c) INTERRELATIONSHIP WITH OTHER SYSTEMS.—In developing the regulations issued under subsection (b), the Administrator shall take into account the work done by the Climate Registry and other mandatory State or multistate programs. Such regulations shall include an explanation of any major differences in approach between the system established under the regulations and such registries and programs.

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"(a) IN GENERAL.—The Administrator shall establish a separate quantity of emission allowances for each calendar year starting in 2012, in the amounts prescribed under subsection (e).

"(b) IDENTIFICATION NUMBERS.—The Administrator shall assign to each emission allowance established under subsection (a) a unique identification number that includes the vintage year for that emission allowance.

"(c) LEGAL STATUS OF EMISSION ALLOWANCES.—

"(1) IN GENERAL.—None of the following constitute a property right:

"(A) An emission allowance.

"(B) A compensatory allowance.

"(C) A strategic reserve allowance.

"(D) An offset credit.

"(2) TERMINATION OR LIMITATION.—Nothing in this Act or any other provision of law shall be construed to limit or alter the authority of the United States, including the Administrator acting pursuant to statutory authority, to terminate or limit allowances or credits.

"(3) OTHER PROVISIONS UNAFFECTED.—Nothing in this Act relating to allowances or credits established or issued under this title shall affect the application of any other provision of law to a covered entity, or the responsibility for a covered entity to comply with any such provision of law.

"(d) SAVINGS PROVISION.—Nothing in this title shall be construed as requiring a change of any kind in any State law regulating electric utility rates and charges, or as affecting any State law regarding such State

regulation, or as limiting State regulation (including any prudency review) under such a State law. Nothing in this title shall be construed as modifying the Federal Power Act or as affecting the authority of the Federal Energy Regulatory Commission under that Act. Nothing in this title shall be construed to interfere with or impair any program for competitive bidding for power supply in a State in which such program is established.

"(e) ALLOWANCES FOR EACH CALENDAR YEAR.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the number of emission allowances established by the Administrator under subsection (a) for each calendar year shall be as provided in the following table:

"Calendar year	Emission allowances (in millions)
2012	4,770
2013	4,666
2014	5,058
2015	4,942
2016	5,391
2017	5,261
2018	5,132
2019	5,002
2020	4,873
2021	4,739
2022	4,605
2023	4,471
2024	4,337
2025	4,203
2026	4,069
2027	3,935
2028	3,801
2029	3,667
2030	3,533
2031	3,408
2032	3,283
2033	3,158
2034	3,033
2035	2,908
2036	2,784
2037	2,659
2038	2,534
2039	2,409
2040	2,284
2041	2,159
2042	2,034
2043	1,910

"Calendar year	Emission allowances (in millions)
2044	1,785
2045	1,660
2046	1,535
2047	1,410
2048	1,285
2049	1,160
2050 and each year thereafter	1,035

"(2) REVISION.—

"(A) IN GENERAL.—If, after notice and an opportunity for public comment, the Administrator determines that—

"(i) United States greenhouse gas emissions in 2005 were other than 7,206 million metric tons carbon dioxide equivalent;

"(ii) the types of covered entities with compliance obligations under section 722 in 2012 were responsible for other than 68.2 percent of United States greenhouse gas emissions in 2005;

"(iii) the types of covered entities with compliance obligations under section 722 in 2014 were responsible for other than 75.7 percent of United States greenhouse gas emissions in 2005; or

"(iv) the types of covered entities with compliance obligations under section 722 in 2016 were responsible for other than 84.5 percent United States greenhouse gas emissions in 2005,

the Administrator may adjust, in accordance with subparagraph (B), the number of emission allowances required to be established pursuant to paragraph (1).

"(B) ADJUSTMENT FORMULA.—

"(i) IN GENERAL.—If the Administrator adjusts, under subparagraph (A) of this paragraph, the number of emission allowances required to be established pursuant to paragraph (1), the number of emission allowances the Administrator requires to be established for any given calendar year shall equal the product of—

"(I) United States greenhouse gas emissions in 2005, expressed in tons of carbon dioxide equivalent;

"(II) the percent of United States greenhouse gas emissions in 2005 from the types of covered entities with compliance obligations for the given calendar year; and

"(III) the percentage set forth for that calendar year in section 703, or determined under clause (iii) of this subparagraph.

"(ii) PERCENTAGE OF EMISSIONS FROM COVERED ENTITIES.—For purposes of subparagraph (A) and clause (i)(II) of this subparagraph, the percent of United States greenhouse gas emissions in 2005 from the types of covered entities with compliance obligations for the given calendar year shall be based on the amount of greenhouse gas emissions for which those covered entities would have been required to hold emission allowances under section 722 if this title had been in effect for 2005 emissions.

"(iii) TARGETS.—In applying the formula under clause (i)(III) of this subparagraph, for calendar years for which a percentage is not listed in section 703, the Administrator shall use a uniform annual decline in the amount of emissions between the years that are specified.

"(iv) LIMITATION ON ADJUSTMENT TIMING.—Once a calendar year has ended, the Administrator may not adjust the number of emission allowances required for that calendar year.

"(C) LIMITATION ON ADJUSTMENT AUTHORITY.—The Administrator may adjust under this paragraph the number of emission allowances required to be established pursuant to paragraph (1) only once.

"(f) COMPENSATORY ALLOWANCE.—

"(1) IN GENERAL.—The regulations promulgated under subsection (g) shall provide for the establishment and distribution of compensatory allowances for—

"(A) the destruction, in 2012 or later, of fluorinated gases that are greenhouse gases if—

"(i) emission allowances were retired for their production; and

"(ii) such gases are not required to be destroyed under any other provision of law;

"(B) the nonemissive use, in 2012 or later, of petroleum-based or coal-based liquid or gaseous fuel, petroleum coke, natural gas liquid, or natural gas as a feedstock, if emission allowances were retired for the greenhouse gases that would have been emitted from their combustion; and

"(C) the consumptive use, in 2012 or later, of fluorinated gases in a production process, including semiconductor research or manufacturing, if emission allowances were retired for the production of such gas.

"(2) ESTABLISHMENT AND DISTRIBUTION.—

"(A) IN GENERAL.—The Administrator shall establish and distribute to the entity taking the actions described in subparagraph (A), (B), or (C) of paragraph (1) a quantity of compensatory allowances no greater than the number of tons of carbon dioxide equivalent of avoided emissions achieved through such actions.

"(B) SOURCE OF ALLOWANCES.—Compensatory allowances established under this subsection shall not be allowances established under subsection (a).

"(C) IDENTIFICATION NUMBERS.—The Administrator shall assign to each compensatory allowance established under subparagraph (A) a unique identification number.

"(3) APPLICABILITY OF SECTIONS.—Sections 724 and 725(b), and subsection (c) of this section, shall apply to compensatory allowances to the same extent as they apply to emission allowances.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'destruction' means the conversion of a greenhouse gas by thermal, chemical, or other means to another gas with little or no global warming potential;

"(B) the term 'nonemissive use' means the use of fossil energy in an industrial or manufacturing process that does not result in greenhouse gas emissions during such process and which ensures that no greenhouse gases will be emitted from the substance; and

"(C) the term 'consumptive use' means a use which has either—

"(i) destroyed a fluorinated gas; or

"(ii) converted a fluorinated gas into another greenhouse gas with a lower global warming potential.

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

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"(a) IN GENERAL.—Except as otherwise provided in this section, as of 12:01 a.m. on April 1 (or a later date established by the Administrator under subsection (j)) of each calendar year starting in 2013, the owner or operator of a covered entity shall hold a quantity of emission allowances at least as great as the quantity calculated as follows:

"(1) ELECTRICITY SOURCES.—For a covered entity described in section 700(12)(A), 1 emission allowance for each ton of carbon dioxide equivalent of greenhouse gas that such covered entity emitted in the previous calendar year, excluding emissions resulting from the use of—

"(A) petroleum-based or coal-based liquid or gaseous fuel;

"(B) natural gas liquid;

"(C) renewable biomass;

"(D) petroleum coke; or

"(E) hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, nitrogen trifluoride, or any other fluorinated gas that is a greenhouse gas purchased for use at that covered entity.

"(2) FUEL PRODUCERS AND IMPORTERS.—For a covered entity described in section 700(12)(B), 1 emission allowance for each ton of carbon dioxide equivalent of greenhouse gas that would be emitted from the combustion of any petroleum-based or coal-based liquid fuel, petroleum coke, or natural gas liquid, produced or imported by such covered entity during the previous calendar year for sale or distribution in interstate

commerce, assuming no capture and sequestration of any greenhouse gas emissions.

"(3) FLUORINATED GAS PRODUCERS AND IMPORTERS.—For a covered entity described in section 700(12)(C), 1 emission allowance for each ton of carbon dioxide equivalent of perfluorocarbons, sulfur hexafluoride, nitrogen trifluoride, or any other fluorinated gas that is a greenhouse gas, or any combination thereof, produced or imported by such covered entity during the previous calendar year for sale or distribution in interstate commerce.

"(4) GEOLOGICAL SEQUESTRATION SITES.—For a covered entity described in section 700(12)(D), 1 emission allowance for each ton of carbon dioxide equivalent of greenhouse gas that such covered entity emitted in the previous calendar year.

"(5) INDUSTRIAL STATIONARY SOURCES.—For a covered entity described in section 700(12)(E), (F), or (G), 1 emission allowance for each ton of carbon dioxide equivalent of greenhouse gas that such covered entity emitted in the previous calendar year, excluding emissions resulting from the use of—

"(A) petroleum-based or coal-based liquid or gaseous fuel;

"(B) natural gas liquid;

"(C) renewable biomass;

"(D) petroleum coke; or

"(E) hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, nitrogen trifluoride, or any other fluorinated gas that is a greenhouse gas purchased for use at that covered entity.

"(6) INDUSTRIAL FOSSIL FUEL-FIRED COMBUSTION DEVICES.—For a covered entity described in section

700(12)(H), 1 emission allowance for each ton of carbon dioxide equivalent of greenhouse gas that the devices emitted in the previous calendar year, excluding emissions resulting from the use of—

"(A) petroleum-based or coal-based liquid or gaseous fuel;

"(B) natural gas liquid;

"(C) renewable biomass; or

"(D) petroleum coke.

"(7) LOCAL DISTRIBUTION COMPANIES.—For a covered entity described in section 700(12)(I), 1 emission allowance for each ton of carbon dioxide equivalent of greenhouse gas that will be emitted from the combustion of the natural gas such entity delivered during the previous calendar year to customers that are not covered entities, assuming no capture and sequestration of that greenhouse gas.

"(8) APPLICATION OF MULTIPLE PARAGRAPHS.—A covered entity to which more than 1 of paragraphs (1) through (7) apply shall hold emission allowances in compliance with all applicable paragraphs, except that not more than 1 emission allowance shall be required for the same emission.

"(b) PHASE-IN OF COMPLIANCE REQUIREMENT.—

"(1) INDUSTRIAL STATIONARY SOURCES.—The requirement under subsection (a) shall first apply to a covered entity described in section 700(12)(E), (F), (G), or (H) with respect to emissions occurring during calendar year 2014.

"(2) LOCAL DISTRIBUTION COMPANIES.—The requirement under subsection (a) shall first apply to a covered entity described in section 700(12)(I) with respect to emissions occurring during calendar year 2016.

"(c) ALTERNATIVE COMPLIANCE.—A covered entity may satisfy its compliance obligations under subsection (a) for a calendar year in accordance with the following:

"(1) OFFSET CREDITS.—

"(A) IN GENERAL.—A covered entity may satisfy a percentage of its compliance obligations by holding 1.25 offset credits in lieu of an emission allowance.

"(B) APPLICABLE PERCENTAGE.— The percentage referred to in subparagraph (A) for a given calender year shall be determined by dividing 2 billion by the sum of 2 billion plus the number of emission allowances established under section 721(a) for the previous year, and multiplying that number by 100. Not more than one half of the applicable percentage under this paragraph may be used for a year by holding domestic offset credits, and not more than one half of the applicable percentage under this paragraph may be used for a year by holding international offset credits.

"(C) PRESIDENT'S RECOMMENDATION.—The President may make a recommendation to Congress as to whether the number 2 billion specified in subparagraph (B) should be increased or decreased.

"(2) INTERNATIONAL EMISSION ALLOWANCES.—A covered entity may satisfy its compliance obligations by holding an international emission allowance in lieu of an emission allowance, except as modified under section 728(d).

"(3) COMPENSATORY ALLOWANCES.—A covered entity may satisfy its compliance obligations by holding a compensatory allowance obtained under section 721(f) in lieu of an emission allowance.

"(d) RETIREMENT OF ALLOWANCES AND CREDITS.—As soon as practicable after a deadline established under this title for holding allowances, the Administrator shall retire the quantity of allowances or credits required under this title.

"(e) ALTERNATIVE METRICS.—For categories of covered entities described in subparagraph (B), (C), (F), (G), or (H) of section 700(12), the Administrator may, by rule, establish an applicability threshold for inclusion under those subparagraphs using an alternative metric and level, provided that such metric and level are easier to administer and cover the same size and type of sources as the threshold defined in such subparagraphs.

"(f) THRESHOLD REVIEW.—For each category of covered entities described in subparagraph (B), (C), (F), (G), or (H) of section 700(12), the Administrator shall, in 2020 and once every 8 years thereafter, review the carbon dioxide equivalent emission thresholds that are used to define covered entities. After consideration of—

> "(1) emissions from covered entities in each such category, and from other entities of the same type that emit less than the threshold amount for the category (including emission sources that commence operation after the date of enactment of this title that are not covered entities); and
>
> "(2) whether greater greenhouse gas emission reductions can be cost-effectively achieved by lowering the applicable threshold,

the Administrator may by rule lower such threshold to not less than 10,000 tons of carbon dioxide equivalent emissions. In determining the cost effectiveness of potential reductions from lowering the threshold for covered entities, the Administrator shall consider alternative regulatory greenhouse gas programs, including setting standards under other titles of this Act.

"(g) DESIGNATED REPRESENTATIVES.—The regulations promulgated under section 721(g) shall require that each covered entity, and each entity holding allowances or credits or receiving allowances or credits from the Administrator under this title, select a designated representative.

"(h) EDUCATION AND OUTREACH.—

> "(1) IN GENERAL.—The Administrator shall establish and carry out a program of education and outreach to assist covered entities, especially entities having little experience with environmental regulatory requirements similar or comparable to those under this title, in preparing to meet the compliance

obligations of this title. Such program shall include education with respect to using markets to effectively achieve such compliance.

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

"(i) ADJUSTMENT OF OBLIGATION DEADLINE.—The Administrator may, by rule, establish a compliance obligation deadline, for a calendar year, later than the date provided in subsection (a), as necessary to ensure the availability of emissions data, but in no event shall the deadline be later than June 1.

"(j) NOTICE REQUIREMENT FOR COVERED ENTITIES RECEIVING NATURAL GAS FROM LOCAL DISTRIBUTION COMPANIES.—The owner or operator of a covered entity that takes delivery of natural gas from a local distribution company shall, not later than September 1 of each calendar year, notify such local distribution company in writing that such entity will qualify as a covered entity under this title for that calendar year.

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"(a) ENFORCEMENT.—A violation of any prohibition of, requirement of, or regulation promulgated pursuant to this title shall be a violation of this Act. Each emission allowance not held as required by this title shall be a separate violation.

"(b) EXCESS EMISSIONS PENALTY.—

"(1) IN GENERAL.—The owner or operator of any covered entity that fails for any year to hold, on the deadline described in section 722(a) or (i) or 725(c), 1 or more of the emission allowances due pursuant to either of those sections shall be liable for payment to the Administrator of an excess emissions penalty in the amount described in paragraph (2).

"(2) AMOUNT.—The amount of an excess emissions penalty required to be paid under paragraph (1) shall be equal to the product obtained by multiplying—

"(A) the number of emission allowances that the owners or operators failed to hold on the deadline; by

"(B) twice the fair market value of emission allowances established for emissions occurring in the calendar year for which the emission allowances were due.

"(3) TIMING.—An excess emissions penalty required under this subsection shall be immediately due and payable to the Administrator, without demand, in accordance with regulations promulgated by the Administrator, which shall be issued not later than 2 years after the date of enactment of this title.

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

"(c) EXCESS EMISSIONS ALLOWANCES.—The owners or operators of a covered entity that fail for any year to hold, on the deadline described in section 722(a) or (i) or 715(c), 1 or more of the emission allowances due pursuant to either of those sections shall be liable to offset the excess emissions by an equal quantity of emission allowances during—

"(1) the following calendar year; or

"(2) such longer period as the Administrator may prescribe.

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"(a) PERMITTED TRANSACTIONS.—Except as otherwise provided in this title, the lawful holder of an emission allowance may, without restriction, sell, exchange, transfer, hold for compliance in accordance with section 722, or request that the Administrator retire the emission allowance.

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

"(c) EFFECTIVENESS OF ALLOWANCE TRANSFERS.—No transfer of an emission allowance shall be effective until a written certification of the transfer, signed by a responsible official of the transferor, is received and recorded by the Administrator in accordance with regulations promulgated under section 721(g).

"(d) ALLOWANCE TRACKING SYSTEM.—The regulations promulgated under section 721(g) shall include a system for issuing, recording, holding, and tracking allowances and credits that shall specify all necessary procedures and requirements for an orderly and competitive functioning of the emission allowance system. Such regulations shall provide for appropriate publication of the information in the system on the Internet.

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"(a) BANKING.—An emission allowance may be used to meet the compliance obligation requirements of section 722(a) or section 723 for emissions in—

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

"(2) any calendar year subsequent to the vintage year for the allowance.

"(b) EXPIRATION.—An allowance or credit established or issued by the Administrator under this title shall not expire unless—

"(1) it is retired by the Administrator as required under this title; or

"(2) the Administrator determines by regulation that expiration is necessary to ensure the authenticity and integrity of allowances or the allowance tracking system.

"(c) BORROWING FUTURE VINTAGE YEAR ALLOWANCES.—

"(1) BORROWING WITHOUT INTEREST.—In addition to the uses described in subsection (a), an emission allowance may be used to meet the compliance obligation requirements of section 722(a) or section 723 for emissions in the calendar year immediately preceding the vintage year for the allowance.

"(2) BORROWING WITH INTEREST.—

"(A) IN GENERAL.—A covered entity may satisfy up to 15 percent of its compliance obligations under section 722(a) in a specific calendar year by holding emission allowances with a vintage year 1 to 5 years later than that calendar year.

"(B) LIMITATIONS.—An emission allowance borrowed pursuant to this paragraph shall be an emission allowance established by the Administrator for a specific future calendar year under section 721(a) and that is held by the borrower.

"(C) REPAYMENT WITH INTEREST.—For each emission allowance that an owner or operator of a covered entity borrows pursuant to this paragraph, such owner or operator shall, at the time it borrows the allowance, hold for retirement by the Administrator a quantity of emission allowances that is equal to the product obtained by multiplying—

"(i) 0.08; by

"(ii) the number of years between the calendar year in which the allowance is being used to satisfy a compliance obligation and the vintage year of the allowance.

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"(a) STRATEGIC RESERVE AUCTIONS.—

"(1) IN GENERAL.—Once each quarter of each calendar year for which compliance obligation requirements under section 722(a) apply, the Administrator shall auction strategic reserve allowances.

"(2) RESTRICTION TO COVERED ENTITIES.—In each auction conducted under paragraph (1), only covered entities that the Administrator expects will be required under section 722(a) to hold emission allowances in the following calendar year shall be eligible to purchase emission allowances.

"(b) POOL OF EMISSION ALLOWANCES FOR STRATEGIC RESERVE AUCTIONS.—

"(1) FILLING THE STRATEGIC RESERVE.—

"(A) IN GENERAL.—The Administrator shall, not later than 2 years after the date of enactment of this title, reserve for auction under this section emission allowances established for the period of calendar years 2012 through 2050 under section 721(a), as provided in subparagraph (B).

"(B) PERCENTAGE REMOVAL.—The amount referred to in subparagraph (A) shall be—

"(i) for each of calendar years 2012 through 2019, the quantity of emission allowances reserved pursuant to subparagraph (A) shall be 1 percent of the quantity established for that year pursuant to section 721(e)(1);

"(ii) for each of calendar years 2020 through 2029, the quantity of emission allowances reserved pursuant to subparagraph (A) shall be 2

percent of the quantity established for that year pursuant to section 721(e)(1); and

"(iii) for each of calendar years 2030 through 2050, the quantity of emission allowances reserved pursuant to subparagraph (A) shall be 3 percent of the quantity established for that year pursuant to section 721(e)(1).

"(C) EFFECT ON OTHER PROVISIONS.—Any provision in this title that refers to a quantity or percentage of the emission allowances established for a calendar year under section 721(a) shall be considered to refer to the amount of emission allowances as determined pursuant to section 721(e)(1), less any emission allowances established for that year that are placed in the strategic reserve under this paragraph.

"(2) SUPPLEMENTING THE STRATEGIC RESERVE.—The Administrator shall also—

"(A) transfer to the strategic reserve each emission allowance that was offered for sale but not sold at an auction conducted under part C; and

"(B) transfer emission allowances established under subsection (g) from auction proceeds, and deposit them into the strategic reserve, to the extent necessary to maintain the reserve at its original size.

"(c) MINIMUM STRATEGIC RESERVE AUCTION PRICE.—

"(1) IN GENERAL.—At each strategic reserve auction, the Administrator shall offer emission allowances for sale beginning at a minimum price per emission allowance, which shall be known as the 'minimum strategic reserve auction price'.

"(2) INITIAL MINIMUM STRATEGIC RESERVE AUCTION PRICES.—The minimum strategic reserve auction price shall be [insert amount twice the EPA-modeled 2012 allowance

price EPA provides to the Committee] for the strategic reserve auctions held in 2012. For the strategic reserve auctions held in 2013 and 2014, the minimum strategic reserve auction price shall be the strategic reserve auction price for the previous year increased by 5 percent plus the rate of inflation (as measured by the Consumer Price Index).

"(3) MINIMUM STRATEGIC RESERVE AUCTION PRICE IN SUBSEQUENT YEARS.—For each strategic reserve auction held in 2015 and each year thereafter, the minimum strategic reserve auction price shall be 100 percent above a rolling 36-month average of the daily closing price for that year's allowance vintage as reported on registered carbon trading facilities, calculated using constant dollars.

"(d) QUANTITY OF EMISSION ALLOWANCES SOLD AT STRATEGIC RESERVE AUCTION.—

"(1) INITIAL LIMITS.—For each of calendar years 2012 through 2016, not more than 5 percent of the emission allowances established for that calendar year under section 721(a) may be sold at the combined strategic reserve auctions during that year.

"(2) LIMITS IN SUBSEQUENT YEARS.—For calendar year 2017 and each year thereafter, not more than 10 percent of the emission allowances established for that calendar year under section 721(a) may be sold at the combined strategic reserve auctions during that year.

"(3) ALLOCATION OF LIMITATION.—One-fourth of each year's annual strategic reserve auction limit under this subsection shall be made available for auction in each quarter. Any allowances made available for sale in a quarterly auction and not sold shall be rolled over and added to the quantity available for sale in the following quarter, except that allowances not sold at auction in the fourth quarter of a year shall not be rolled over to the following calendar year's auctions, but shall be returned to the reserve.

"(e) PURCHASE LIMIT.—

"(1) IN GENERAL.—Except as provided in paragraph (2) or (3), the annual number of emission allowances that a covered entity may purchase at the strategic reserve auctions in each calendar year shall not exceed 10 percent of the covered entity's most recent emission allowance compliance obligation under section 722(a).

"(2) 2012 LIMIT.—For calendar year 2012, the maximum number of emission allowances that a covered entity may purchase from that year's strategic reserve auctions shall be 10 percent of the covered entity's greenhouse gas emissions that the covered entity reported to the registry established under section 713 for 2011 and for which emission allowances would be required under section 722(a) if occurring in later calendar years.

"(3) NEW ENTRANTS.—The Administrator shall, by regulation, establish a separate limitation applicable to entities that expect to become a covered entity in the year of the auction, permitting them to purchase emission allowances at the strategic reserve auctions in their first calendar year of operation in an amount of at least 10 percent of their expected compliance obligation under section 722(a) for that year.

"(f) DELEGATION OR CONTRACT.—Pursuant to regulations under this section, the Administrator may, by delegation or contract, provide for the conduct of auctions under the Administrator's supervision by other departments or agencies of the Federal Government or by nongovernmental agencies, groups, or organizations.

"(g) USE OF AUCTION PROCEEDS.—

"(1) DEPOSIT IN STRATEGIC RESERVE FUND.—The proceeds from strategic reserve auctions shall be placed in the Strategic Reserve Fund established under section 782(c), and shall be available without further appropriation or fiscal year limitation.

"(2) INTERNATIONAL OFFSET CREDITS FOR REDUCED DEFORESTATION.—The Administrator shall use the proceeds from each strategic reserve auction to purchase international offset credits issued for reduced deforestation activities pursuant to section 753(e). The Administrator shall retire those international offset credits and establish a number of emission allowances equal to 80 percent of the number of international offset credits so retired. Emission allowances established under this paragraph shall be in addition to those established under section 721(a).

"(3) EMISSION ALLOWANCES.—The Administrator shall deposit emission allowances issued under paragraph (2) in the strategic reserve, except that, with respect to any such emission allowance in excess of the amount necessary to fill the strategic reserve to its original size, the Administrator shall—

"(A) assign a vintage year to the emission allowance, which shall be no earlier than the year in which the allowance is established under paragraph (2); or

"(B) to the extent any such allowances cannot be assigned a vintage year because of the limitation in paragraph (4), retire the allowances.

"(4) LIMITATION.—In no case may the Administrator assign under paragraph (3)(A) more emission allowances to a vintage year than the number of emission allowances reserved for the strategic reserve from that vintage year under subsection (b)(1).

"(h) AVAILABILITY OF INTERNATIONAL OFFSET CREDITS FOR AUCTION.—

"(1) IN GENERAL.—The Administrator shall issue regulations allowing any entity in possession of international offset credits from reduced deforestation issued under section 753(e) to request that the Administrator include such offset credits in a strategic reserve auction. The regulations shall provide that—

"(A) such international offset credits will be used to fill bid orders only after the supply of strategic reserve allowances available for sale at the auction has been depleted;

"(B) international offset credits may be sold at a strategic reserve auction under this subsection only if the Administrator determines that it is highly likely that covered entities will, to cover emissions occurring in the year the auction is held, meet their compliance obligation under section 722 by holding offset credits in an amount equal to or greater than 80 percent of 2 billion tons of carbon dioxide equivalent;

"(C) upon sale of such international offset credits, the Administrator shall retire those international offset credits, and establish and provide to the purchasers a number of emission allowances equal to 80 percent of the number of international offset credits so retired; and

"(D) for international offset credits sold pursuant to this subsection, the proceeds for the entity that offered the international offset credits for sale shall equal the average daily price for international offset credits sold on registered exchanges during the six months prior to the strategic reserve auction at which they were auctioned, and the remaining funds collected upon the sale of the international offset credits shall be deposited in the Treasury.

"(2) PROCEEDS.—For international offset credits auctioned pursuant to this subsection, notwithstanding section 3302 of title 31, United States Code, or any other provision of law, within 90 days of receipt, the United States shall transfer the proceeds from the auction to the entity which possessed the international offset credits auctioned. No funds transferred from a purchaser to a seller of international offset credits under this paragraph shall be held by any officer or employee of the United States or treated for any purpose as revenue to the United States or the Administrator.

"(3) PRICING.—When the Administrator acts under this subsection as the agent of an entity in possession of international offset credits, the Administrator is not obligated to obtain the highest price possible for the international offset credits, and instead shall auction such international offset credits in the same manner and pursuant to the same rules (except as modified in paragraph (1)) as set forth for auctioning strategic reserve allowances. Entities requesting that such international offset credits be offered for sale at a strategic reserve auction may not set a minimum reserve price for their international offset credits.

"(i) INITIAL REGULATIONS.—Not later than 24 months after the date of enactment of this title, the Administrator shall promulgate regulations, in consultation with other appropriate agencies, governing the auction of allowances under this section. Such regulations shall include the following requirements:

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

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

"(3) PARTICIPATION; FINANCIAL ASSURANCE.—Auctions shall be open to any covered entity, except that the Administrator may establish financial assurance requirements to ensure that auction participants can and will perform on their bids.

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

"(5) PURCHASE LIMITS.—No person may, directly or in concert with another participant, purchase more than 20 percent of the allowances offered for sale at any quarterly auction.

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

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

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

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"(a) PERMIT PROGRAM.—For stationary sources subject to title V of this Act, the provisions of this title shall be implemented by permits issued to covered entities (and enforced) in accordance with the provisions of title V, as modified by this title. Any such permit issued by the Administrator, or by a State with an approved permit program, shall require a covered entity to hold a number of emission allowances at least equal to the total annual amount of carbon dioxide equivalents for which emission allowances must be held by the covered entity under section 722. No such permit shall be issued that is inconsistent with the requirements of this title, and title V as applicable. Nothing in this section regarding compliance plans or in title V shall be construed as affecting emission allowances. Submission of a statement by the owner or operator, or the designated representative of the owners and operators, of a covered entity that the owners and operators will

hold emission allowances not less than the total amount of carbon dioxide equivalents for a year for which emission allowances must be held by the covered entity under section 722 shall be deemed to meet the proposed and approved planning requirements of title V. Recordation by the Administrator of transfers of emission allowances shall amend automatically all applicable proposed or approved permit applications, compliance plans, and permits.

"(b) MULTIPLE OWNERS.—No permit shall be issued under this section and no emission allowances shall be disbursed under this title to a covered entity or any other person until the designated representative of the owners or operators has filed a certificate of representation with regard to matters under this title, including the holding and distribution of emission allowances and the proceeds of transactions involving emission allowances. Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, such a covered entity or other entity or where a utility or industrial customer purchases power from an independent power producer, the certificate shall state—

> "(1) that emission allowances and the proceeds of transactions involving emission allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement; or
>
> "(2) if such multiple holders have expressly provided for a different distribution of emission allowances by contract, that emission allowances and the proceeds of transactions involving emission allowances will be deemed to be held or distributed in accordance with the contract.

A passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the covered entity or other shall not be deemed to be a holder of a legal, equitable, leasehold, or contractual interest for the purpose of holding or distributing emission allowances as provided in this subsection, during either the term of such leasehold or thereafter, unless expressly provided for in the leasehold agreement. Except as otherwise provided in this subsection, where all legal or equitable title to or interest in a covered entity, or other entity, is held by a single person, the certification

shall state that all emission allowances received by the entity are deemed to be held for that person.

"(c) PROHIBITION.—It shall be unlawful for any person to operate any covered entity except in compliance with the terms and requirements of a permit issued by the Administrator or a State with an approved permit program. For purposes of this subsection, compliance, as provided in section 504(f), with a permit issued under title V which complies with this title for covered entities shall be deemed compliance with this subsection as well as section 502(a).

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"(a) QUALIFYING PROGRAMS.—The Administrator, in consultation with the Secretary of State, may by rule designate an international climate change program as a qualifying international program if—

"(1) the program is run by a national or supranational foreign government, and imposes a mandatory absolute tonnage limit on greenhouse gas emissions from 1 or more foreign countries, or from 1 or more economic sectors in such a country or countries; and

"(2) the program is at least as stringent as the program established by this title, including provisions to ensure comparable monitoring, compliance, enforcement, quality of offsets, and restrictions on the use of offsets.

"(b) DISQUALIFIED ALLOWANCES.—An international emission allowance may not be held under section 722 if it is in the nature of an offset instrument or allowance awarded based on the achievement of greenhouse gas emission reductions or avoidance, or greenhouse gas sequestration, that are not subject to the mandatory absolute tonnage limits referred to in subsection (a)(1).

"(c) RETIREMENT.—

"(1) ENTITY CERTIFICATION.—The owner or operator of an entity that holds an international emission allowance under

section 722 shall certify to the Administrator that such international emission allowance has not previously been used to comply with any foreign, international, or domestic greenhouse gas regulatory program.

"(2) RETIREMENT.—

"(A) FOREIGN AND INTERNATIONAL REGULATORY ENTITIES.—The Administrator, in consultation with the Secretary of State, shall seek, by whatever means appropriate, including agreements and technical cooperation on allowance tracking, to ensure that any relevant foreign, international, and domestic regulatory entities—

"(i) are notified of the use, for purposes of compliance with this title, of any international emission allowance; and

"(ii) provide for the disqualification of such international emission allowance for any subsequent use under the relevant foreign, international, or domestic greenhouse gas regulatory program, regardless of whether such use is a sale, exchange, or submission to satisfy a compliance obligation.

"(B) DISQUALIFICATION FROM FURTHER USE.—The Administrator shall ensure that, once an international emission allowance has been retired or otherwise used for purposes of compliance with this title, such allowance shall be disqualified from any further use under this title.

"(d) USE LIMITATIONS.—The Administrator may, by rule, modify the percentage of a covered entity's compliance obligation that may be met with international emission allowances under section 722(c)(2).

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"(a) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this title, the Administrator shall establish an independent Offsets Integrity Advisory Board. The Advisory Board shall make recommendations to the Administrator for use in promulgating and revising regulations under this part and part E, and for ensuring the overall environmental integrity of the programs established pursuant to those regulations.

"(b) MEMBERSHIP.—The Advisory Board shall be comprised of nine members with relevant expertise. At least six members of the Advisory Board shall be scientists, and at least one member shall be a member of the National Academy of Sciences. The Administrator shall appoint Advisory Board members, including a chair and vice-chair of the Advisory Board. Terms shall be 3 years in length, except for initial terms, which may be up to 5 years in length to allow staggering. Members may be reappointed only once for an additional 3-year term, and such second term may follow directly after a first term.

"(c) ACTIVITIES.—The Advisory Board established pursuant to subsection (a) shall—

"(1) provide recommendations, not later than 90 days after the Advisory Board's establishment and periodically thereafter, to the Administrator regarding offset project types that should be considered for eligibility under section 733, taking into consideration relevant scientific and other issues, including—

"(A) the potential for accurate quantification of greenhouse gas reduction, avoidance, or sequestration for an offset project type;

"(B) the potential level of scientific and measurement uncertainty associated with an offset project type; and

"(C) any beneficial or adverse environmental, public health, welfare, social, economic, or energy effects associated with an offset project type;

"(2) provide recommendations to the Administrator regarding offset methodologies that should be considered under regulations promulgated pursuant to section 734(a) and (b), including methodologies to address the issues of additionality, activity baselines, measurement, leakage, uncertainty, and permanence;

"(3) advise the Administrator, and other relevant Federal agencies, regarding scientific, technical, and methodological issues specific to the issuance of international offset credits under section 743;

"(4) advise the Administrator, and other relevant Federal agencies, regarding scientific, technical, and methodological issues associated with the implementation of part E;

"(5) advise the Administrator of areas in which further knowledge is required to appraise the adequacy of existing, revised, or proposed methodologies for use under this part and part E, and describe the research efforts necessary to provide the required information; and

"(6) advise the Administrator on other ways to improve or safeguard the environmental integrity of programs established under this part and part E.

"(d) SCIENTIFIC REVIEW OF OFFSET AND DEFORESTATION REDUCTION PROGRAMS.—Not later than January 1, 2017, and at five-year intervals thereafter, the Advisory Board shall submit to the Administrator and make available to the public an analysis of relevant scientific and technical information related to this part and part E. The Advisory Board shall review approved and potential offset methodologies, scientific studies, offset project monitoring, offset project verification reports, and audits, and evaluate the net emissions effects of implemented offset projects. The Advisory Board shall recommend changes to offset methodologies, protocols, or project types, or to the overall offset program under this part, to ensure that offset credits issued by the Administrator do not compromise the

integrity of the emissions cap established under section 702, and to avoid or minimize any adverse effects to human health or the environment.

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"(a) REGULATIONS.—Not later than 2 years after the date of enactment of this title, the Administrator, in consultation with appropriate Federal agencies and taking into consideration the recommendations of the Advisory Board, shall promulgate regulations establishing a program for the issuance of offset credits in accordance with the requirements of this part.

"(b) REQUIREMENTS.—The regulations described in subsection (a) shall—

"(1) authorize the issuance of offset credits with respect to qualifying offset projects that result in reductions or avoidance of greenhouse gas emissions, or sequestration of greenhouse gases;

"(2) ensure that such offset credits represent verifiable and additional greenhouse gas emission reductions or avoidance, or increases in sequestration;

"(3) ensure that offset credits issued for sequestration offset projects are only issued for greenhouse gas reductions that are permanent; and

"(4) provide for the implementation of the requirements of this part.

"(c) COORDINATION TO MINIMIZE NEGATIVE EFFECTS.—In promulgating and implementing regulations under this part, the Administrator shall act (including by rejecting projects, if necessary) to avoid or minimize, to the maximum extent practicable, adverse effects on human health or the environment resulting from the implementation of offset projects under this part.

"(d) OFFSET REGISTRY.—The Administrator shall establish an Offset Registry for qualifying offset projects and offset credits issued with respect thereto under this part.

"(e) FEES.—The Administrator may assess fees payable by offset project representatives in an amount necessary to cover the administrative costs to the Environmental Protection Agency of processing and approving offset projects and issuing offset credits under this part.

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"(a) LIST OF ELIGIBLE PROJECT TYPES.—

"(1) IN GENERAL.—As part of the regulations promulgated under section 732(a), the Administrator shall establish, and may periodically revise, a list of types of projects eligible for offset credits under this part.

"(2) ADVISORY BOARD RECOMMENDATIONS.—In determining the eligibility of project types, the Administrator shall take into consideration the recommendations of the Advisory Board. If a list established under this section differs from the recommendations of the Advisory Board, the Administrator shall provide a justification for the discrepancy.

"(3) INITIAL DETERMINATION.—The Administrator shall establish the initial eligibility list under paragraph (1) not later than 2 years after the date of enactment of this title. In determining the initial list, the Administrator shall give priority to consideration of offset project types that are recommended by the Advisory Board.

"(b) MODIFICATION OF LIST.—The Administrator—

"(1) may at any time, by rule, add a project type to the list established under subsection (a) if the Administrator, in consultation with appropriate Federal agencies and taking into consideration the recommendations of the Advisory Board, determines that the project type can generate additional

reductions or avoidance of greenhouse gas emissions, or sequestration of greenhouse gases, subject to the requirements of this part;

"(2) may at any time, by rule, remove a project type from the list established under subsection (a), in consultation with appropriate Federal agencies and taking into consideration the recommendations of the Advisory Board; and

"(3) shall consider adding to or removing from the list established under subsection (a), at a minimum, types proposed to the Administrator—

"(A) by petition pursuant to subsection (c); or

"(B) by the Advisory Board.

"(c) PETITION PROCESS.—Any person may petition the Administrator to modify the list established under subsection (a) by adding or removing a project type. Any such petition shall include a showing by the petitioner that there is adequate data to establish that the project type will meet the requirements of this part. Not later than 12 months after receipt of such a petition, the Administrator shall either grant or deny the petition and publish a written explanation of the reasons for the Administrator's decision. The Administrator may not deny a petition on the basis of inadequate Environmental Protection Agency resources or time for review.

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"(a) METHODOLOGIES.—

"(1) IN GENERAL.—As part of the regulations promulgated under section 732(a), the Administrator shall establish, for each type of offset project listed as eligible under section 733(a), the following:

"(A) ADDITIONALITY.—A standardized methodology for determining the additionality of greenhouse gas emission reductions or avoidance, or

greenhouse gas sequestration, achieved by an offset project of that type. Such methodology shall ensure, at a minimum, that any greenhouse gas emission reduction or avoidance, or any greenhouse gas sequestration, is considered additional only to the extent that it results from activities that—

"(i) are not required by or undertaken to comply with any law, including any regulation;

"(ii) were not commenced prior to January 1, 2009, except as provided in section 740(a); and

"(iii) exceed the activity baseline established under subparagraph (B).

"(B) ACTIVITY BASELINES.—A standardized methodology for establishing activity baselines for offset projects of that type. The Administrator shall set activity baselines to reflect a conservative estimate of business-as-usual performance or practices for the relevant type of activity such that the baseline provides an adequate margin of safety to ensure the environmental integrity of offsets calculated in reference to such baseline.

"(C) MEASUREMENT.—A standardized methodology for determining the extent to which greenhouse gas emission reductions or avoidance, or greenhouse gas sequestration, achieved by an offset project of that type exceed a relevant activity baseline, including protocols for monitoring.

"(D) LEAKAGE.—A standardized methodology for accounting for and mitigating potential leakage, if any, from an offset project of that type.

"(E) UNCERTAINTY.—A standardized methodology for use in determining and discounting for uncertainty with respect to the greenhouse gas emission reduction or avoidance, or greenhouse gas sequestration from, an offset project of that type.

"(2) VARIANCES.—The Administrator may establish procedures for an offset project representative to request approval for the use of methodologies that differ from those established by the Administrator pursuant to subparagraphs (A) through (E) of paragraph (1). The Administrator may grant such a variance request if, in the Administrator's judgment, use of the requested methodologies will ensure that the requirements of this part will be satisfied.

"(b) ACCOUNTING FOR REVERSALS.—

"(1) IN GENERAL.—The Administrator shall establish policies to account for and address reversals in sequestration projects, including—

"(A) a requirement to report any reversal with respect to an offset project for which offset credits have been issued under this part;

"(B) policies to assign liability and responsibility for mitigating and fully compensating for reversals; and

"(C) any other provisions the Administrator determines necessary to account for and address reversals.

"(2) MECHANISMS.—The Administrator shall prescribe mechanisms to ensure that any sequestration with respect to which an offset credit is issued under this part results in a permanent net increase in sequestration, and that full account is taken of any actual or potential reversal of such sequestration, with an adequate margin of safety. The Administrator shall prescribe at least one of the following mechanisms to meet the requirements of this paragraph:

"(A) An offsets reserve, pursuant to paragraph (3).

"(B) Insurance that provides for full compensation for the amount of emissions released due to reversal.

"(C) Another mechanism that the Administrator determines satisfies the requirements of this part.

"(3) OFFSETS RESERVE.—

"(A) IN GENERAL.—An offsets reserve referred to in paragraph (2)(A) is a program under which, before issuance of offset credits under this part, the Administrator shall subtract and reserve from the quantity to be issued a quantity of offset credits based on the risk of reversal. The Administrator shall—

"(i) hold these reserved offset credits in the offsets reserve; and

"(ii) register the holding of the reserved offset credits in the Offset Registry established under section 732(d).

"(B) PROJECT REVERSAL.—

"(i) IN GENERAL.—If a reversal has occurred with respect an offset project for which offset credits are reserved under this paragraph, the Administrator shall remove offset credits from the offsets reserve and cancel them to fully account for the tons of carbon dioxide equivalent that are no longer sequestered.

"(ii) INTENTIONAL REVERSALS.—If the Administrator determines that a reversal was intentional, the offset project representative for the relevant offset project shall place into the offset reserve a quantity of offset credits, or combination of offset credits and emission allowances, equal in number to the number of reserve offset credits that were canceled due to the reversal pursuant to clause (i).

"(iii) UNINTENTIONAL REVERSALS.—If the Administrator determines that a reversal was

unintentional, the offset project representative for the relevant offset project shall place into the offset reserve a quantity of offset credits, or combination of offset credits and emission allowances, equal in number to the number of offset credits that were reserved for that qualifying project, or the number of reserve offset credits that were canceled due to the reversal pursuant to clause (i), whichever is less.

"(C) USE OF RESERVED OFFSET CREDITS.—Offset credits placed into the offsets reserve under this paragraph may not be used to satisfy compliance obligations under section 722.

"(c) CREDITING PERIODS.—

"(1) IN GENERAL.—For each offset project type, the Administrator shall specify a crediting period in accordance with this subsection.

"(2) DURATION.—The crediting period shall be no less than 5 and no greater than 10 years for any project type other than those involving sequestration.

"(3) ELIGIBILITY.—An offset project shall be eligible to generate offset credits under this part only during the project's crediting period. During such crediting period, the project shall remain eligible to generate offset credits, subject to the methodologies and project type eligibility list that applied as of the date of project approval under section 735, except as provided in paragraph (4) of this subsection.

"(4) PETITION FOR NEW CREDITING PERIOD.—An offset project representative may petition for a new crediting period to commence after termination of a crediting period, subject to the methodologies and project type eligibility list in effect at the time when such petition is submitted. A petition may not be submitted under this paragraph more than 18 months before the end of the pending crediting period.

"(d) ENVIRONMENTAL INTEGRITY.—In establishing the requirements under this section, the Administrator shall apply conservative assumptions or methods to maximize the certainty that the environmental integrity of the cap established under section 703 is not compromised.

"(e) PRE-EXISTING METHODOLOGIES.—In promulgating requirements under this section, the Administrator shall give due consideration to methodologies for offset projects existing as of the date of enactment of this title.

"(f) ADDED PROJECT TYPES.—The Administrator shall establish methodologies described in subsection (a) for any project type that is added to the list pursuant to section 733.

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"(a) APPROVAL PETITION.—An offset project representative shall submit an offset project approval petition providing such information as the Administrator requires to determine whether the offset project is eligible for issuance of offset credits under rules promulgated pursuant to this part.

"(b) TIMING.—An approval petition shall be submitted to the Administrator under subsection (a) no later than the time at which an offset project's first verification report is submitted.

"(c) APPROVAL PETITION REQUIREMENTS.—The Administrator shall specify the required components of an offset project approval petition required under subsection (a), which shall include—

"(1) designation of an offset project representative; and

"(2) any other information that the Administrator considers to be necessary to achieve the purposes of this part.

"(d) APPROVAL AND NOTIFICATION.—Not later than 90 days after receiving a complete approval petition under subsection (a), the Administrator shall approve or reject the petition in writing and, if the petition is denied, provide the reasons for denial. A petition may be resubmitted for approval at any time following denial. After an offset project

is approved, the offset project representative shall not be required to resubmit an approval petition during the offset project's crediting period, except as provided in section 734(c)(4).

"(e) APPEAL.—The Administrator shall establish procedures for appeal and review of determinations made under subsection (d).

"(f) VOLUNTARY PREAPPROVAL REVIEW.—The Administrator shall establish a voluntary preapproval review procedure, to allow an offset project representative to request the Administrator to conduct a preliminary eligibility review for an offset project. Findings of such reviews shall not be binding upon the Administrator. The voluntary preapproval review procedure—

"(1) shall require the offset project representative to submit such basic project information as the Administrator requires to provide a meaningful review; and

"(2) shall require a response from the Administrator not later than 6 weeks after receiving a request for review under this subsection.

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"(a) IN GENERAL.—An offset project representative shall submit a report, prepared by a third-party verifier accredited under subsection (d), providing such information as the Administrator requires to determine the quantity of greenhouse gas emission reductions or avoidance, or sequestration of greenhouse gas, resulting from the offset project.

"(b) SCHEDULE.—The Administrator shall prescribe a schedule for the submission of verification reports under subsection (a).

"(c) VERIFICATION REPORT REQUIREMENTS.—The Administrator shall specify the required components of a verification report required under subsection (a), which shall include—

"(1) the name and contact information for the offset project representative;

"(2) the quantity of greenhouse gas reduced, avoided, or sequestered;

"(3) the methodologies applicable to the project pursuant to section 734;

"(4) a certification establishing that the conflict of interest requirements in the regulations promulgated under subsection (d)(1) have been complied with; and

"(5) any other information that the Administrator considers to be necessary to achieve the purposes of this part.

"(d) VERIFIER ACCREDITATION.—

"(1) IN GENERAL.—As part of the regulations promulgated under section 732(a), the Administrator shall establish a process and requirements for accreditation of third-party verifiers to ensure that such verifiers are professionally qualified and have no conflicts of interest.

"(2) STANDARDS.—The Administrator may accredit, or accept for purposes of accreditation under this subsection, verifiers accredited under the American National Standards Institute (ANSI) accreditation program in accordance with ISO 14065. The Administrator shall accredit, or accept for accreditation, verifiers under this paragraph only if the Administrator finds that the American National Standards Institute accreditation program provides sufficient assurance that the requirements of this part will be met.

"(3) PUBLIC ACCESSIBILITY.—Each verifier meeting the requirements for accreditation in accordance with this subsection shall be listed in a publicly accessible database, which shall be maintained and updated by the Administrator.

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"(a) DETERMINATION AND NOTIFICATION.—Not later than 90 days after receiving a verification report under section 736, the Administrator shall make a determination of the quantity of greenhouse gas emissions reduced or avoided, or greenhouse gases sequestered, resulting from an offset project approved under section 735, and shall notify the offset project representative in writing of such determination.

"(b) ISSUANCE OF OFFSET CREDITS.—The Administrator shall issue one offset credit to an offset project representative for each ton of carbon dioxide equivalent that the Administrator has determined has been reduced, avoided, or sequestered during the period covered by a verification report submitted in accordance with section 736, only if—

> "(1) the Administrator has approved the offset project pursuant to section 735; and
>
> "(2) the relevant emissions reduction, avoidance, or sequestration has already occurred, during the offset project's crediting period.

"(c) APPEAL.—The Administrator shall establish procedures for appeal and review of determinations made under subsection (a).

"(d) TIMING.—Offset credits meeting the criteria established in subsection (b) shall be issued not later than 2 weeks following the verification determination made by the Administrator under subsection (a).

"(e) REGISTRATION.—The Administrator shall assign a unique serial number to and register each offset credit to be issued.

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"(a) IN GENERAL.—The Administrator shall, on an ongoing basis, conduct random audits of offset projects, offset credits, and practices of third-party verifiers. In each year, the Administrator shall conduct audits, at minimum, for a representative sample of project types and geographic areas.

"(b) DELEGATION.—The Administrator may delegate to a State or tribal government the responsibility for conducting audits under this section

if the Administrator finds that the program proposed by the State or tribal government provides assurances equivalent to those provided by the auditing program of the Administrator, and that the integrity of the offset program under this part will be maintained. Nothing in this subsection shall prevent the Administrator from conducting any audit the Administrator considers necessary and appropriate.

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"At least once every 5 years, the Administrator shall review and, based on new information and taking into consideration the recommendations of the Advisory Board, update and revise—

"(1) the methodologies established under section 734(a);

"(2) the reversal policies and mechanisms established under section 734(b);

"(3) measures to improve the accountability of the offsets program; and

"(4) any other requirements established under this part to ensure the environmental integrity and effective operation of this part.

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"(a) PROJECTS REGISTERED UNDER OTHER GOVERNMENT-RECOGNIZED PROGRAMS.—Except as provided in subsection (b), the Administrator shall issue an offset credit for each ton of carbon dioxide equivalent emissions reduced or avoided, or sequestered—

"(1) under an offset project that was started after January 1, 2001; and

"(2) for which a credit was issued under any regulatory or voluntary greenhouse gas emission offset program that the Administrator determines—

"(A) was established by State or tribal law or regulation prior to January 1, 2009;

"(B) has developed offset project type standards, methodologies, and protocols through a public consultation process;

"(C) has publicly published standards, methodologies, and protocols that require that credited emission reductions or sequestration are permanent, additional, verifiable, and enforceable;

"(D) requires that all emission reductions or sequestration be verified by a State regulatory agency or an accredited third-party independent verification body;

"(E) requires that all credits issued are registered in a publicly accessible registry, with individual serial numbers assigned for each ton of carbon dioxide equivalent emission reductions or sequestration; and

"(F) ensures that no credits are issued for activities for which the entity administering the program, or a program administrator or representative, has funded, solicited, or served as a fund administrator for the development of, the project or activity that caused the emission reduction or sequestration.

"(b) INELIGIBLE CREDITS.—Subsection (a) shall not apply to offset credits that have expired or have been retired or canceled, or used for compliance under a program established pursuant to a State law.

"(c) LIMITATION.—Notwithstanding subsection (a)(1), offset credits shall be issued under this part—

"(1) only for reductions or avoidance of greenhouse gas emissions, or sequestration of greenhouse gases, that occur after January 1, 2009; and

"(2) only until the date that is 3 years after the date of enactment of this title, or the date that regulations promulgated under section 732(a) take effect, whichever occurs sooner.

"(d) RETIREMENT OF CREDITS.—The Administrator shall seek to ensure that offset credits described in subsection (a)(2) are retired for purposes of use under a program described in subsection (b).

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"If the Administrator lists forestry projects as eligible offset project types under section 733, the Administrator, in consultation with appropriate Federal agencies, shall promulgate regulations for the selection and use of tree species in forestry offset projects—

"(1) to ensure that native species are given primary consideration in such projects;

"(2) to enhance biological diversity in such projects;

"(3) to prohibit the use of federally designated or State-designated noxious weeds;

"(4) to prohibit the use of a species listed by a regional or State invasive plant authority within the applicable region or State; and

"(5) in accordance with widely accepted, environmentally sustainable forestry practices.

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"(a) OWNERSHIP.—Initial ownership of an offset credit shall lie with the entity represented by the offset project representative, unless otherwise specified in a legally binding contract or agreement.

"(b) TRANSFERABILITY.—An offset credit issued under this part may be sold, traded, or transferred, unless the offset credit has expired or been retired or used for compliance.

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"(a) IN GENERAL.—The Administrator, in consultation with the Secretary of State, may issue, in accordance with this section, international offset credits based on activities that reduce or avoid greenhouse gas emissions, or increase sequestration of greenhouse gases, in a developing country.

"(b) ESTABLISHMENT.—

"(1) REGULATIONS.—Not later than 2 years after the date of enactment of this title, the Administrator, in consultation with the Secretary of State and taking into consideration the recommendations of the Advisory Board, shall promulgate regulations for implementing this section. The issuance of international offset credits under this section shall be subject to the requirements of this part.

"(2) REQUIREMENTS FOR INTERNATIONAL OFFSET CREDITS.—The Administrator may issue international offset credits only if—

"(A) the United States is a party to a bilateral or multilateral agreement or arrangement that includes the country in which the project or measure achieving the relevant greenhouse gas emission reduction or avoidance, or greenhouse gas sequestration, has occurred;

"(B) such country is a developing country; and

"(C) such agreement or arrangement—

"(i) ensures that all of the requirements of this part apply to the issuance of international offset credits under this section; and

"(ii) provides for the appropriate disposition of international offset credits issued.

"(c) SECTOR-BASED CREDITS.—

"(1) IN GENERAL.— In order to minimize the potential for leakage and to encourage countries to take nationally appropriate mitigation actions to reduce or avoid greenhouse gas emissions, or sequester greenhouse gases, the Administrator, in consultation with the Secretary of State, shall—

"(A) identify under paragraph (2) sectors of specific countries with respect to which the issuance of international offset credits on a sectoral basis is appropriate; and

"(B) issue international offset credits for such sectors only on a sectoral basis.

"(2) IDENTIFICATION OF SECTORS.—

"(A) GENERAL RULE.—The Administrator, in consultation with the Secretary of State, shall identify sectors of specific countries with respect to which the issuance of international offset credits on a sectoral basis is appropriate. In general, a sectoral basis shall be appropriate for activities—

"(i) in countries that have comparatively high greenhouse gas emissions, or comparatively greater levels of economic development; and

"(ii) that, if located in the United States, would be within a sector subject to the compliance obligation under section 722.

"(B) FACTORS.—In determining the sectors and countries for which international offset credits should be awarded only on a sectoral basis, the Administrator, in consultation with the Secretary of State, shall consider the following factors:

"(i) The country's gross domestic product.

"(ii) The country's total greenhouse gas emissions.

"(iii) Whether the comparable sector of the United States economy is covered by the compliance obligation under section 722.

"(iv) The heterogeneity or homogeneity of sources within the relevant sector.

"(v) Whether the relevant sector provides products or services that are sold in internationally competitive markets.

"(vi) The risk of leakage if international offset credits were issued on a project-level basis, as distinct from a sector-level basis, for activities within the relevant sector.

"(vii) The capability of accurately measuring, monitoring, reporting, and verifying the performance of sources across the relevant sector.

"(viii) Whether the relevant country has requested that 1 or more of the sectors in its economy be eligible for sector-based credits under this subsection.

"(ix) Such other factors as the Administrator, in consultation with the Secretary of State, determines are appropriate to—

"(I) ensure the integrity of the United States greenhouse gas emissions cap established under section 703; and

"(II) encourage countries to take nationally appropriate mitigation actions to reduce or avoid greenhouse gas emissions, or sequester greenhouse gases.

"(3) SECTORAL BASIS.—

"(A) DEFINITION.—In this subsection, the term 'sectoral basis' means the issuance international offset credits only for the quantity of sector-wide reductions or avoidance of greenhouse gas emissions, or sector-wide increases in sequestration of greenhouse gases, achieved across the relevant sector of the economy relative to a baseline level of performance established in an agreement or arrangement described in subsection (b)(2)(A) for the sector.

"(B) BASELINE.—The baseline for a sector shall be established at levels of greenhouse gas emissions lower than would occur under a business-as-usual scenario, and additionality and performance shall be determined on the basis of such baseline.

"(4) MODIFICATION OF REQUIREMENTS.—In promulgating regulations under subsection (b)(1) with respect to the issuance of international offset credits under this subsection, the Administrator may modify or omit a requirement of this part (excluding the requirements of this section) if the Administrator determines that the application of that requirement to this subsection is not feasible. In modifying or omitting such a requirement on the basis of infeasibility, the Administrator shall ensure, with an adequate margin of safety, the integrity of international offset credits issued under this

section and of the greenhouse gas emissions cap established pursuant to section 703.

"(d) CREDITS ISSUED BY AN INTERNATIONAL BODY.—

"(1) IN GENERAL.—The Administrator, in consultation with the Secretary of State, may issue international offset credits in exchange for instruments in the nature of offset credits that are issued by an international body established pursuant to the United Nations Framework Convention on Climate Change, to a protocol to such Convention, or to a treaty that succeeds such Convention. The Administrator may issue such credits only if, in addition to the requirements of subsection (b), the Administrator has determined that the international body that issued the instruments has implemented substantive and procedural requirements for the relevant project type that provide equal or greater assurance of the integrity of such instruments as is provided by the requirements of this part.

"(2) RETIREMENT.—The Administrator, in consultation with the Secretary of State, shall seek, by whatever means appropriate, including agreements, arrangements, or technical cooperation with the international issuing body described in paragraph (1), to ensure that such body—

"(A) is notified of the Administrator's issuance, under this subsection, of an international offset credit in exchange for an instrument issued by such international body; and

"(B) provides, to the extent feasible, for the disqualification of the instrument issued by such international body for subsequent use under any relevant foreign or international greenhouse gas regulatory program, regardless of whether such use is a sale, exchange, or submission to satisfy a compliance obligation.

"(3) MODIFICATION OF REQUIREMENTS.—In promulgating regulations under subsection (b)(1) with respect

to the issuance of international offset credits under this subsection, the Administrator may modify or omit a requirement of this part (excluding the requirements of this section) if the Administrator determines that the application of that requirement to this subsection is not feasible. In modifying or omitting such a requirement on the basis of infeasibility, the Administrator shall ensure, with an adequate margin of safety, the integrity of international offset credits issued under this section and of the greenhouse gas emissions cap established pursuant to section 703.

"(e) OFFSETS FROM REDUCED DEFORESTATION.—

"(1) REQUIREMENTS.—The Administrator, in accordance with an agreement or arrangement described in subsection (b)(2)(A), shall issue international offset credits for greenhouse gas emission reductions achieved through activities to reduce deforestation only if, in addition to the requirements of subsection (b)—

"(A) the activity occurs in a country listed by the Administrator pursuant to paragraph (2);

"(B) the quantity of the international offset credits is determined by comparing the national emissions from deforestation relative to a national deforestation baseline for that country established, in accordance with an agreement or arrangement described in subsection (b)(2)(A), pursuant to paragraph (3);

"(C) the reduction in emissions from deforestation has occurred before the issuance of the international offset credit and, taking into consideration relevant international standards, has been demonstrated using ground-based inventories, remote sensing technology, and other methodologies to ensure that all relevant carbon stocks are accounted;

"(D) the Administrator has made appropriate adjustments to account for circumstances specific to the

country, such as discounting for any additional uncertainty; and

"(E) the activity is designed, carried out, and managed—

"(i) in accordance with widely accepted, environmentally sustainable forestry practices; and

"(ii) to promote native species and conservation or restoration of native forests, if practicable, and to avoid the introduction of invasive nonnative species.

"(2) ELIGIBLE COUNTRIES.—The Administrator, in consultation with the Secretary of State and in accordance with an agreement or arrangement described in subsection (b)(2)(A), shall establish, and periodically review and update, a list of the developing countries that have the capacity to participate in international deforestation reduction activities at a national level, including—

"(A) the technical capacity to monitor and measure forest carbon fluxes for all significant sources of greenhouse gas emissions from deforestation with an acceptable level of uncertainty; and

"(B) the institutional capacity to reduce emissions from deforestation, including strong forest governance and mechanisms to deliver deforestation resources for local actions.

"(3) PROTECTION OF INTERESTS.—With respect to an agreement or arrangement described in subsection (b)(2)(A) with a country that addresses offset credits under this subsection, the Administrator shall seek to ensure the establishment and enforcement by such country of legal regimes, standards and safeguards that—

"(A) give due regard to the rights and interests of local communities, indigenous peoples, and vulnerable social groups;

"(B) promote consultations with local communities and indigenous peoples in affected areas, as partners and primary stakeholders, prior to and during the design, planning, implementation, and monitoring and evaluation of activities; and

"(C) encourage sharing of profits from incentives for emissions reductions with local communities and indigenous peoples.

"(4) NATIONAL DEFORESTATION BASELINE.—A national deforestation baseline shall—

"(A) be national in scope;

"(B) be consistent with nationally appropriate mitigation commitments or actions, taking into consideration the average annual historical deforestation rates of the country during a period of at least 5 years and other factors to ensure additionality;

"(C) establish a trajectory that would result in zero gross deforestation by not later than 20 years after the national deforestation baseline has been established;

"(D) be adjusted over time to take account of changing national circumstances;

"(E) be designed to account for all significant sources of greenhouse gas emissions from deforestation in the country; and

"(F) be consistent with the national deforestation baseline, if any, established for such country under section 754(d)(1).

"(5) DEFORESTATION.—In implementing this subsection, the Administrator, taking into consideration the recommendations of the Advisory Board, may include forest degradation, or soil carbon losses associated with forested wetlands or peatlands, within the meaning of deforestation.

"(6) MODIFICATION OF REQUIREMENTS.—In promulgating regulations under subsection (b)(1) with respect to the issuance of international offset credits under this subsection, the Administrator may modify or omit a requirement of this part (excluding the requirements of this section) if the Administrator determines that the application of that requirement to this subsection is not feasible. In modifying or omitting such a requirement on the basis of infeasibility, the Administrator shall ensure, with an adequate margin of safety, the integrity of international offset credits issued under this section and of the greenhouse gas emissions cap established pursuant to section 703.

"(f) AVOIDING DOUBLE COUNTING.—The Administrator, in consultation with the Secretary of State, shall seek, by whatever means appropriate, including agreements, arrangements, or technical cooperation, to ensure that activities on the basis of which international offset credits are issued under this section are not used for compliance with an obligation to reduce or avoid greenhouse gas emissions, or increase greenhouse gas sequestration, under a foreign or international regulatory system. In addition, no international offset credits shall be issued for emissions reductions from activities with respect to which emission allowances were allocated under part E.

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"In this part:

"(1) INTERNATIONAL DEFORESTATION REDUCTION ACTIVITIES.—The term 'international deforestation reduction activities' means activities in developing countries authorized by this part.

"(2) LEAKAGE PREVENTION ACTIVITIES.—The term 'leakage prevention activities' means activities in developing countries that are directed at preserving existing forest carbon stocks, including forested wetlands and peatlands, that might, absent such activities, be lost through leakage.

"(3) NATIONAL DEFORESTATION REDUCTION ACTIVITIES.—The term 'national deforestation reduction activities' means activities in developing countries that reduce a quantity of greenhouse gas emissions from deforestation that is calculated by measuring actual emissions against a national deforestation baseline established pursuant to section 754(d)(1) and (2).

"(4) SUBNATIONAL DEFORESTATION REDUCTION ACTIVITIES.—The term 'subnational deforestation reduction activities' means activities in developing countries that reduce a quantity of greenhouse gas emissions from deforestation that are calculated by measuring actual emissions using an appropriate baseline established by the Administrator.

"(5) SUPPLEMENTAL EMISSIONS REDUCTIONS.—The term 'supplemental emissions reductions' means greenhouse gas emissions reductions achieved from reduced or avoided deforestation under this part.

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"Congress finds that—

"(1) land use change, primarily deforestation, is one of the largest sources of greenhouse gas emissions in developing countries, amounting to roughly 20 percent of overall emissions globally;

"(2) recent scientific analysis shows that it will be substantially more difficult to limit the increase in global temperatures to less than 2 degrees centigrade above preindustrial levels without reducing and ultimately halting net emissions from deforestation;

"(3) reducing emissions from deforestation is highly cost-effective, compared to many other sources of emissions reductions;

"(4) as part of a global effort to mitigate climate change, it is in the national interest of the United States to assist developing countries to reduce and ultimately halt emissions from deforestation; and

"(5) in addition to contributing significantly to worldwide efforts to address global warming, this assistance will generate significant environmental and social cobenefits, including protection of biodiversity, ecosystem services, and forest-related livelihoods.

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"(a) REGULATIONS.—Not later than 2 years after the date of enactment of this title, the Administrator, in consultation with the Secretary of State and the Secretary of Agriculture, shall promulgate regulations establishing a program to use emission allowances set aside for this purpose under section 781 to achieve the reduction of greenhouse gas emissions from deforestation in developing countries in accordance with the requirements of this part.

"(b) OBJECTIVES.—The objectives of the program established under this section shall be to—

"(1) achieve supplemental emissions reductions of at least 720,000,000 tons of carbon dioxide equivalent in 2020, a cumulative amount of at least 6,000,000,000 tons of carbon dioxide equivalent by December 31, 2025, and additional supplemental emissions reductions in subsequent years;

"(2) build capacity to reduce deforestation in countries experiencing deforestation, including preparing developing countries to participate in international markets for international offset credits for reduced emissions from deforestation; and

"(3) preserve existing forest carbon stocks in countries where such forest carbon may be vulnerable to international leakage, particularly in developing countries with largely intact native forests.

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"(a) ELIGIBLE COUNTRIES.—The Administrator may support activities under this section only with respect to a developing country that—

"(1) the Administrator determines is experiencing deforestation or degradation or has standing forest carbon stocks that may be at risk of deforestation or degradation; and

"(2) has entered into a bilateral or multilateral agreement or arrangement with the United States establishing the conditions of its participation in the program established under this section, which shall include an agreement to meet the standards established under subsection (d) for the activities to which those standards apply.

"(b) ACTIVITIES.—Subject to the requirements of this part, the Administrator may support activities to achieve the objectives identified in section 753(b), including—

"(1) national deforestation reduction activities;

"(2) subnational deforestation reduction activities, including pilot activities that reduce greenhouse gas emissions but are subject to significant uncertainty;

"(3) leakage prevention activities;

"(4) development of measurement, monitoring, and verification capacities to enable a country to quantify supplemental emissions reductions and to participate in international markets for offset credits from reduced or avoided deforestation;

"(5) development of governance structures to reduce deforestation and illegal logging;

"(6) enforcement of requirements for reduced deforestation or forest conservation;

"(7) efforts to combat illegal logging and increase enforcement cooperation; and

"(8) providing incentives for policy reforms to achieve the objectives identified in section 753(b).

"(c) MECHANISMS.—

"(1) IN GENERAL.—The Administrator may support activities to achieve each of the objectives identified in section 753(b) by—

"(A) developing and implementing programs and projects that achieve such objectives; and

"(B) distributing emission allowances to a country that is eligible under subsection (a), to any private or public group (including public international organizations), or to an international fund established by an international agreement to which the United States is a party, to carry out activities to achieve such objectives.

"(2) IMPLEMENTATION THROUGH INTERNATIONAL ORGANIZATIONS.—If assistance is distributed through an international organization, the Administrator shall ensure the establishment and implementation of adequate mechanisms to apply and enforce the eligibility requirements and other requirements of this section.

"(d) STANDARDS.—The Administrator shall promulgate standards to ensure that supplemental emissions reductions achieved through supported activities are additional, measurable, verifiable, permanent, monitored, and account for leakage and uncertainty. In addition, such standards shall—

"(1) require the establishment of a national deforestation baseline for each country with national deforestation reduction activities that is used to account for reductions achieved from such activities;

"(2) provide that a national deforestation baseline established under paragraph (1) shall—

"(A) be national in scope;

"(B) be consistent with nationally appropriate mitigation commitments or actions, taking into consideration the average annual historical deforestation rates of the country during a period of at least 5 years and other factors to ensure additionality;

"(C) establish a trajectory that would result in zero gross deforestation by not later than 20 years from the date the baseline is established;

"(D) be adjusted over time to take account of changing national circumstances;

"(E) be designed to account for all significant sources of greenhouse gas emissions from deforestation in the country; and

"(F) be consistent with the national deforestation baseline, if any, established for such country under section 754(d)(1);

"(3) with respect to support provided pursuant to subsection (b)(1) or (2), require supplemental emissions reductions to be achieved and verified prior to compensation through the provision of emission allowances;

"(4) with respect to accounting for subnational deforestation reduction activities that lack the standardized or precise measurement and monitoring techniques needed for a full accounting of changes in emissions or baselines, or are subject to other sources of uncertainty, apply a conservative discount factor to reflect the uncertainty regarding the levels of reductions achieved;

"(5) ensure that international deforestation reduction activities shall be designed, carried out, and managed—

"(A) in accordance with widely accepted, environmentally sustainable forestry practices; and

"(B) to promote native species and conservation or restoration of native forests, if practicable, and to avoid the introduction of invasive nonnative species; and

"(6) with respect to support for all activities under this part, seek to ensure the establishment and enforcement by the recipient country of legal regimes, standards, and safeguards that—

"(A) give due regard to the rights and interests of local communities, indigenous peoples, and vulnerable social groups;

"(B) promote consultations with local communities and indigenous peoples in affected areas, as partners and primary stakeholders, prior to and during the design, planning, implementation, monitoring, and evaluation of activities under this part; and

"(C) encourage sharing of profits from incentives for emissions reductions or leakage prevention with local communities and indigenous peoples.

"(e) EXPANSION OF SCOPE.—The Administrator may decide, taking into account any advice from the Advisory Board, to expand, where appropriate, the scope of international deforestation reduction activities to include—

"(1) reduced emissions from forest degradation; or

"(2) reduced soil carbon-derived emissions associated with deforestation and degradation of forested wetlands and peatlands.

"(f) ACCOUNTING.—The Administrator shall establish a publicly accessible registry of the supplemental emissions reductions achieved through support provided under this part each year, after appropriately discounting for uncertainty and other relevant factors as required by the standards established under subsection (d).

"(g) TRANSITION TO NATIONAL REDUCTIONS.—Beginning 5 years after the date that a country entered into the agreement required under subsection (a)(2), the Administrator shall provide no further compensation through emission allowances to that country under this section for any subnational deforestation reduction activities, except that the Administrator may extend this period by an additional 5 years if the Administrator determines that—

"(1) the country is making substantial progress towards adopting and implementing a program to achieve reductions in deforestation measured against a national baseline;

"(2) the greenhouse gas emissions reductions achieved are not resulting in significant leakage; and

"(3) the greenhouse gas emissions reductions achieved are being appropriately discounted to account for any leakage that is occurring.

The limitation under this subsection shall not apply to support for activities to further the objectives listed in section 753(b)(2) or (3).

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"(a) REPORTS.—Not later than January 1, 2014, and annually thereafter, the Administrator shall submit to the Committee on Energy and Commerce and the Committee on Foreign Affairs of the House of Representatives, and

the Committee on Environment and Public Works and the Committee on Foreign Relations of the Senate, and make available to the public, a report on the support provided under this part during the prior fiscal year. The report shall include—

"(1) a statement of the quantity of supplemental emissions reductions for which compensation was provided under this part during the prior fiscal year, as registered by the Administrator under section 754(f); and

"(2) a description of the international deforestation reduction activities, capacity-building activities, and leakage protection activities supported under this part, including a statement of the quantity of emission allowances provided to each recipient for each activity during the prior fiscal year, and a description of what was accomplished through each of the activities.

"(b) REVIEWS.—Not later than 4 years after the date of enactment of this title and every 5 years thereafter, the Administrator, in consultation with the Secretary of State and taking into consideration any evaluation by or recommendations from the Advisory Board established under section 731, shall conduct a review of the activities undertaken pursuant to this part and make any appropriate changes in the program established under this part based on the findings of the review. The review shall include the effects of the activities on—

"(1) total documented carbon stocks of each country that directly or indirectly received support under this part compared with such country's national deforestation baseline;

"(2) the number of countries with the capacity to generate for sale in the international market for instruments in the nature of offset credits from forest-related activities, and the amount of such activities;

"(3) forest governance in each country that directly or indirectly received support under this part;

"(4) indigenous and forest-dependent peoples residing in areas affected by such activities;

"(5) biodiversity and ecosystem services within forested areas associated with the activities;

"(6) international leakage; and

"(7) any program or mechanism established under the United Nations Framework Convention on Climate Change related to greenhouse gas emissions from deforestation.

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"Nothing in this part supersedes, limits, or otherwise affects any restriction imposed by Federal law (including regulations) on any interaction between an entity located in the United States and an entity located in a foreign country.

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"(a) DEFINITIONS.—In this section:

"(1) COMMISSION.—The term 'Commission' means the Federal Energy Regulatory Commission.

"(2) REGULATED ALLOWANCE.—The term 'regulated allowance' means any emission allowance, compensatory allowance, or offset credit established or issued under this title.

"(3) REGULATED ALLOWANCE DERIVATIVE.—The term 'regulated allowance derivative' means an instrument that is or includes an instrument—

"(A) which—

"(i) is of the character of, or is commonly known to the trade as, a 'put option', 'call option', 'privilege', 'indemnity', 'advance guaranty', 'decline guaranty', or 'swap agreement'; or

"(ii) is a contract of sale for future delivery; and

"(B) the value of which, in whole or in part, is expressly linked to the price of a regulated allowance or another regulated allowance derivative.

"(4) REGULATED INSTRUMENT.—The term 'regulated instrument' means a regulated allowance or a regulated allowance derivative.

"(b) REGULATED ALLOWANCE MARKET.—

"(1) AUTHORITY.—The Commission, in consultation and coordination with the Administrator, shall promulgate regulations for the establishment, operation, and oversight of markets for regulated allowances not later than 18 months after the date of the enactment of this section, and from time to time thereafter as may be appropriate.

"(2) REGULATIONS.—The regulations promulgated pursuant to paragraph (1) shall—

"(A) provide for effective and comprehensive market oversight;

"(B) prohibit fraud, market manipulation, and excess speculation, and provide measures to limit unreasonable fluctuation in the prices of regulated allowances;

"(C) facilitate compliance with this title by covered entities;

"(D) ensure market transparency and recordkeeping necessary to provide for efficient price discovery;

prevention of fraud, market manipulation, and excess speculation; and compliance with this Act;

"(E) ensure that position limitations for individual market participants are established with respect to each class of regulated allowances;

"(F) ensure that margin requirements are established for each class of regulated allowances;

"(G) provide for the formation and operation of a national market system that allows for best execution in the trading of regulated allowances;

"(H) limit or eliminate counterparty risks, market power concentration risks, and other risks associated with over-the-counter trading; and

"(I) establish standards for qualification as and operation of registered trading facilities for regulated allowances;

"(J) establish standards for qualification as and operation of registered clearing organizations for trading facilities for regulated allowances; and

"(K) include such other requirements as necessary to preserve market integrity and facilitate compliance with this title and the regulations promulgated under this title.

"(3) DEFAULT RULE.—

"(A) An individual market participant, directly or in concert with another participant, shall not control more than 10 percent of any class of regulated allowance.

"(B) To the extent that regulations promulgated under this subsection provide different rules with respect to the matters described in subparagraph (A), the regulations shall supersede subparagraph (A).

"(4) ENFORCEMENT.—

"(A) IN GENERAL.—If the Commission determines, after notice and an opportunity for a hearing on the record, that any person (other than a trading facility for regulated allowances, or clearing organization, registered with the Commission) has violated any rule or order issued by the Commission under this subsection, the Commission may issue an order—

"(i) prohibiting the person from trading on a trading facility for regulated allowances registered with the Commission, and requiring all such facilities to refuse the person all privileges for such period as may be specified in the order;

"(ii) if the person is registered with the Commission in any capacity, suspending, for a period of not more than 6 months, or revoking, the registration of the person;

"(iii) assessing the person, in accord with the gravity of the violation, a civil penalty of not more than the greater of $1,000,000 or triple the monetary gain to the person for each such violation; and

"(iv) requiring restitution to customers of damages proximately caused by the violation.

"(B) AUTHORITY TO SUSPEND OR REVOKE REGISTRATION.—The Commission may suspend for a period of not more than 6 months, or revoke, the registration of a trading facility for regulated allowances or of a clearing organization registered by the Commission if, after notice and opportunity for a hearing on the record, the Commission finds that—

"(i) the entity violated any rule or order issued by the Commission under this subsection; or

"(ii) a director, officer, employee, or agent of the entity has violated any rule or order issued by the Commission under this subsection.

"(C) CEASE AND DESIST ORDERS.—If the Commission finds, after notice and an opportunity for a hearing on the record, that a person has violated any rule or order issued by the Commission under this subsection, the Commission may issue an order directing the person to cease and desist from the violation.

"(D) ACTIONS TO COLLECT CIVIL PENALTIES.—If any person fails to pay a civil penalty assessed under this subsection after an order assessing the penalty has become final and unappealable, the Commission shall bring an action to recover the amount of the penalty in any appropriate United States district court. In any such action, the validity or appropriateness of the final assessment order or judgment shall not be subject to review. The Commission shall be represented by the Attorney General or the Solicitor General, as appropriate, in any action under this subparagraph.

"(c) DELEGATION OF AUTHORITY TO THE PRESIDENT.—

"(1) DELEGATION.—The President, taking into consideration the recommendations of the interagency working group established in subsection (d), shall delegate to members of the working group and the heads of other appropriate Federal agencies the authority to promulgate regulations for the establishment, operation, and oversight of all markets for regulated allowance derivatives.

"(2) REGULATIONS.—The regulations promulgated pursuant to paragraph (1) shall—

"(A) provide for effective and comprehensive market oversight;

"(B) prohibit fraud, market manipulation, and excess speculation, and provide measures to limit

unreasonable fluctuation in the prices of regulated allowance derivatives;

"(C) facilitate compliance with this title by covered entities;

"(D) ensure market transparency and recordkeeping necessary to provide for efficient price discovery; prevention of fraud, market manipulation, and excess speculation; and compliance with this Act;

"(E) ensure that position limitations for individual market participants are established with respect to each regulated allowance derivative;

"(F) ensure that margin requirements are established for each regulated allowance derivative;

"(G) provide for the formation and operation of a national market system that allows for best execution in the trading of regulated allowance derivatives;

"(H) to the extent the regulations deviate from the rule set forth in paragraph (4)(B), limit or eliminate counterparty risks, market power concentration risks, and other risks associated with over-the-counter trading; and

"(I) include such other requirements as necessary to preserve market integrity and facilitate compliance with this title and the regulations promulgated under this title.

"(3) DEADLINE.—The agencies authorized to promulgate regulations for the establishment, operation, and oversight of markets for regulated allowance derivatives pursuant to paragraph (1) shall promulgate such regulations not later than 18 months after the date of enactment of this section, and from time to time thereafter as may be appropriate.

"(4) DEFAULT RULES.—

"(A) An individual market participant, directly or in concert with another participant, shall not control more than 10 percent of the open interest in any regulated allowance derivative.

"(B) All contracts for the purchase or sale of any regulated allowance derivative shall be executed on or through a designated contract market provided for in section 5 of the Commodity Exchange Act (7 U.S.C. 7).

"(C) To the extent that regulations promulgated under this subsection provide different rules with respect to the matters described in subparagraph (A) or (B), the regulations shall supersede subparagraph (A) or (B), as the case may be.

"(d) WORKING GROUP.—

"(1) ESTABLISHMENT.—Not later than 30 days after the date of the enactment of this section, the President shall establish an interagency working group on carbon market oversight, which shall include the Administrator and representatives of other relevant agencies, to make recommendations to the President regarding proposed regulations for the establishment, operation, and oversight of markets for regulated allowance derivatives.

"(2) REPORT.—Not later than 180 days after the date of the enactment of this section, and biennially thereafter, the interagency working group shall submit a written report to the President and Congress that includes its recommendations to the President regarding proposed regulations for the establishment, operation, and oversight of markets for regulated allowance derivatives and any recommendations to Congress for statutory changes needed to ensure the establishment, operation, and oversight of transparent, fair, stable, and efficient markets for regulated allowance derivatives.

"(e) ENFORCEMENT OF REGULATIONS.—Each Federal agency that promulgates under subsection (c) a regulation of conduct with respect to a

regulated allowance derivative shall have the same authority to enforce compliance with the regulation as the Commodity Futures Trading Commission has to enforce compliance with any regulation of similar conduct with respect to a contract, agreement, or transaction over which the Commodity Futures Trading Commission has jurisdiction.

"(f) PROHIBITION ON PRICE OR MARKET MANIPULATION, FRAUD, AND FALSE OR MISLEADING STATEMENTS OR REPORTS.—(1) It shall be a felony punishable by a fine of not more than $25,000,000 (or $5,000,000 in the case of a person who is an individual) or imprisonment for not more than 20 years, or both, together with the costs of prosecution for any person, directly or indirectly—

"(A) in connection with a transaction involving a regulated instrument, to knowingly—

"(i) use any manipulative or deceptive device or contrivance in violation of regulations promulgated pursuant to this section;

"(ii) corner or attempt to corner the regulated instrument; or

"(iii) cheat or defraud, or attempt to cheat or defraud, any other person;

"(B) to deliver or cause to be delivered a knowingly false, misleading, or inaccurate report concerning information or conditions that affect or tend to affect the price of a regulated instrument;

"(C) to knowingly make, or cause to be made, in an application, report, or document required to be filed under any regulation promulgated pursuant to this section, a statement which is false or misleading with respect to a material fact, or to omit any material fact required to be stated therein or necessary to make the statements therein not misleading; or

"(D) to knowingly falsify, conceal, or cover up by any trick, scheme, or artifice a material fact, make any false, fictitious, or fraudulent statements or representations, or make

or use any false writing or document that contains a false, fictitious, or fraudulent statement or entry, to an entity on or through which transactions in regulated instruments occur, or are settled or cleared, acting in furtherance of its official duties under this section or regulations promulgated under this section.

"(2) If a person is found guilty of a felony established in paragraph (1), the person may be prohibited from holding or trading regulated instruments for a period of not more than 5 years pursuant to the regulations promulgated under this section, except that, if the person is a covered entity, the person shall be allowed to hold sufficient regulated allowances to meet its compliance obligations.".

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Title VII of the Clean Air Act, as added by section 311 of this Act, is amended by inserting before part A the following new section:

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"In this title:

"(1) ADDITIONAL.—The term 'additional', when used with respect to reductions or avoidance of greenhouse gas emissions, or to sequestration of greenhouse gases, means reductions, avoidance, or sequestration that result in a lower level of net greenhouse gas emissions or atmospheric concentrations than would occur in the absence of an offset project.

"(2) ADDITIONALITY.—The term 'additionality' means the extent to which reductions or avoidance of greenhouse gas emissions, or sequestration of greenhouse gases, are additional.

"(3) ADVISORY BOARD.—The term 'Advisory Board' means the Offsets Integrity Advisory Board established under section 731.

"(4) AFFILIATED.—The term 'affiliated', when used in relation to a local distribution company, means owned or controlled by, or under common ownership or control with, another local distribution company, as determined by the Administrator.

"(5) BIOLOGICAL SEQUESTRATION; BIOLOGICALLY SEQUESTERED.—The terms 'biological sequestration' and 'biologically sequestered' mean the removal of greenhouse gases from the atmosphere by terrestrial biological means, such as by growing plants, and the storage of those greenhouse gases in plants or soils.

"(6) CAPPED EMISSIONS.—The term 'capped emissions' means greenhouse gas emissions for which an emission allowance must be held pursuant to section 722, including emissions from the combustion or oxidation of natural gas, petroleum-based or coal-based liquid or gaseous fuel, petroleum coke, or natural gas liquid for which an allowance must be held pursuant to section 722(a)(2) or (7).

"(7) CAPPED SECTOR.—The term 'capped sector' means a sector of economic activity that directly emits capped emissions, including the industrial sector, the electricity generation sector, the transportation sector, the residential and commercial sectors (to the extent they burn oil or natural gas), but not including the agricultural or forestry sectors.

"(8) CAPPED SOURCE.—The term 'capped source' means a source that directly emits capped emissions.

"(9) CARBON STOCK.—The term 'carbon stock' means the quantity of carbon contained in a biological reservoir or system which has the capacity to accumulate or release carbon.

"(10) CERTIFIED GEOLOGIC SEQUESTRATION SITE.—The term 'certified geologic sequestration site' means a

geologic sequestration site that has been certified under section 813.

"(11) COMPENSATORY ALLOWANCE.—The term 'compensatory allowance' means an allowance issued under section 721(f).

"(12) COVERED ENTITY.—The term 'covered entity' means each of the following:

"(A) Any electricity source.

"(B) Any stationary source that produces, and any entity that imports, for sale or distribution in interstate commerce in 2008 or any subsequent year, petroleum-based or coal-based liquid fuel, petroleum coke, or natural gas liquid, the combustion of which would emit more than 25,000 tons of carbon dioxide equivalent, as determined by the Administrator.

"(C) Any stationary source that produces, and any entity that imports, for sale or distribution in interstate commerce in 2008 or any subsequent year more than 25,000 tons of carbon dioxide equivalent of—

"(i) fossil fuel-based carbon dioxide;

"(ii) nitrous oxide;

"(iii) perfluorocarbons;

"(iv) sulfur hexafluoride;

"(v) nitrogen trifluoride;

"(vi) any other fluorinated gas that is a greenhouse gas, as designated by the Administrator under section 711(b) or (c); or

"(vii) any combination of greenhouse gases described in clauses (i) through (vi).

"(D) Any geologic sequestration site, whether certified under section 813 or not.

"(E) Any stationary source in the following industrial sectors:

"(i) Adipic acid production.

"(ii) Primary aluminum production.

"(iii) Ammonia manufacturing.

"(iv) Cement production, excluding grinding-only operations.

"(v) Hydrochlorofluorocarbon production.

"(vi) Lime manufacturing.

"(vii) Nitric acid production.

"(viii) Petroleum refining.

"(ix) Phosphoric acid production.

"(x) Silicon carbide production.

"(xi) Soda ash production.

"(xii) Titanium dioxide production.

"(xiii) Coal-based liquid or gaseous fuel production.

"(F) Any stationary source in the chemical or petrochemical sector that, in 2008 or any subsequent year—

"(i) manufactures acrylonitrile, carbon black, ethylene, ethylene dichloride, ethylene oxide, or methanol; or

"(ii) manufactures a chemical or petrochemical product not manufactured as of the date of enactment of this title, if manufacturing that product results in annual process emissions of 25,000 or more tons of carbon dioxide equivalent.

"(G) Any stationary source that—

"(i) is in one of the following industrial sectors: ethanol production; ferroalloy production; food processing; glass production; hydrogen production; iron and steel production; lead production; pulp and paper manufacturing; and zinc production; and

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

"(H) Any fossil fuel-fired combustion device (such as a boiler) or grouping of such devices that—

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

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

"(I) Any local distribution company that (or any group of 2 or more affiliated local distribution companies that, in the aggregate) in 2008 or any subsequent year, delivers 460,000,000 cubic feet or more of natural gas to customers that are not covered entities.

"(13) CREDITING PERIOD.—The term 'crediting period' means the period with respect to which an offset project is eligible to earn offset credits under part D, as determined under section 733(a)(3).

"(14) DESIGNATED REPRESENTATIVE.—The term 'designated representative' means, with respect to a covered entity, a reporting entity, or any other entity receiving or holding allowances or credits under this title, an individual authorized, through a certificate of representation submitted to the Administrator by the owners and operators, to represent the owners and operators in all matters pertaining to this title (including the holding, transfer, or disposition of allowances or credits), and to make all submissions to the Administrator under this title.

"(15) DEVELOPING COUNTRY.—The term 'developing country' means a country eligible to receive financial assistance from the International Bank for Reconstruction and Development (commonly known as the World Bank).

"(16) DOMESTIC OFFSET CREDIT.—The term 'domestic offset credit' means an offset credit issued under part D, other than an international offset credit.

"(17) ELECTRICITY SOURCE.—The term 'electricity source' means a stationary source that includes one or more utility units.

"(18) EMISSION.—The term 'emission' means the release of a greenhouse gas into the ambient air. Such term does not include gases that are captured and geologically sequestered, except to the extent that they are later released into the atmosphere, in which case they shall be subject to section 722(a)(4).

"(19) EMISSION ALLOWANCE.—The term 'emission allowance' means a limited authorization to emit 1 ton of carbon dioxide equivalent of a greenhouse gas in accordance with this title.

"(20) FAIR MARKET VALUE.—The term 'fair market value' means the average daily closing price on registered exchanges, during a specified time period, of an emission allowance.

"(21) FEDERAL LAND.—The term 'Federal land' means land that is owned by the United States, other than land held in trust for an Indian or Indian tribe.

"(22) FOSSIL FUEL.—The term 'fossil fuel' means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material, including consumer products that are derived from such materials and are combusted.

"(23) FOSSIL FUEL-FIRED.—The term 'fossil fuel-fired' means powered by combustion of fossil fuel, alone or in combination with any other fuel, regardless of the percentage of fossil fuel consumed.

"(24) GEOLOGIC SEQUESTRATION; GEOLOGICALLY SEQUESTERED.—The terms 'geologic sequestration' and 'geologically sequestered' mean the isolation of greenhouse gases in geologic formations at certified geologic sequestration sites.

"(25) GREENHOUSE GAS.—The term 'greenhouse gas' means any gas described in section 711(a) or designated under section 711(b), (c), or (d), except to the extent that it is regulated under title VI.

"(26) HOLD.—The term 'hold' means to have in the appropriate account in the allowance tracking system, or submit to the Administrator for recording in such account.

"(27) INDUSTRIAL SOURCE.—The term 'industrial source' means any stationary source that—

"(A) is not an electricity source; and

"(B) is in—

"(i) the manufacturing sector (as defined in North American Industrial Classification System codes 31, 32, and 33); or

"(ii) the natural gas processing or natural gas pipeline transportation sector (as defined in North American Industrial Classification System codes 211112 or 486210).

"(28) INTERNATIONAL EMISSION ALLOWANCE.—The term 'international emission allowance' means a tradable authorization to emit 1 ton of carbon dioxide equivalent of greenhouse gas that is issued by a national or supranational foreign government pursuant to a qualifying international program designated by the Administrator pursuant to section 728(a).

"(29) INTERNATIONAL FOREST CARBON ACTIVITIES.—The term 'international forest carbon activities' means national or subnational activities in countries other than the United States that are directed at—

"(A) reducing greenhouse gas emissions from deforestation or forest degradation; or

"(B) increasing sequestration of carbon through—

"(i) afforestation or reforestation of acreage not forested as of January 1, 2009;

"(ii) restoration of degraded land or forest; or

"(iii) improved forest management.

"(30) INTERNATIONAL OFFSET CREDIT.—The term 'international offset credit' means an offset credit issued by the Administrator under section 743.

"(31) LEAKAGE.—The term 'leakage' means a significant increase in greenhouse gas emissions, or significant decrease in sequestration, which is caused by an offset project and occurs outside the boundaries of the offset project.

"(32) LOCAL DISTRIBUTION COMPANY.—The term 'local distribution company' has the meaning given that term

in section 2(17) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301(17)).

"(33) NATIONAL DEFORESTATION BASELINE.—The term 'national deforestation baseline' means a baseline developed pursuant to section 754(c).

"(34) NATURAL GAS LIQUID.—The term 'natural gas liquid' includes ethane, propane, butane, and isobutene.

"(35) OFFSET CREDIT.—The term 'offset credit' means a credit issued under part D.

"(36) OFFSET PROJECT.—The term 'offset project' means a project or activity that reduces or avoids greenhouse gas emissions, or sequesters greenhouse gases, and for which offset credits are issued under part D.

"(37) OFFSET PROJECT REPRESENTATIVE.—The term 'offset project representative' means the individual or entity designated as the offset project representative in a verification report for an offset project submitted under section 735(c).

"(38) PETROLEUM.—The term 'petroleum' includes crude oil, tar sands, oil shale, and heavy oils.

"(39) RENEWABLE BIOMASS.—The term 'renewable biomass' means each of the following:

"(A) Crops, crop byproducts, or crop residues harvested from actively managed or fallow agricultural land that was cleared prior to the date of enactment of this title and is nonforested.

"(B) Planted trees, brush, slash, and all residues from an actively managed tree plantation located on land that was cleared prior to the date of enactment of this title and is not Federal land.

"(C) Pre-commercial-sized thinnings, slash, brush, and residue from milled trees, from forested land that is not—

"(i) old-growth or mature forest;

"(ii) identified under a State Natural Heritage Program as rare, imperiled, or critically imperiled; or

"(iii) Federal land.

"(D) Algae.

"(E) Nonhazardous plant matter derived from waste such as separated yard waste, landscape right-of-way trimmings, or food waste (but not municipal solid waste, recyclable waste paper, painted, treated or pressurized wood, or wood contaminated with plastic or metals).

"(F) Animal waste or animal byproducts, including products of animal waste digesters.

"(G) Vegetative matter removed from within 200 yards of any manmade structure or campground.

"(40) RETIRE.—The term 'retire', with respect to an allowance or credit established or issued under this title, means to disqualify such allowance or credit for any subsequent use under this title, regardless of whether the use is a sale, exchange, or submission of the allowance or credit to satisfy a compliance obligation.

"(41) REVERSAL.—The term 'reversal' means an intentional or unintentional loss of sequestered greenhouse gases to the atmosphere.

"(42) SEQUESTERED AND SEQUESTRATION.—The terms 'sequestered' and 'sequestration' mean the separation, isolation, or removal of greenhouse gases from the atmosphere,

as determined by the Administrator. The terms do not include nonterrestrial sequestration.

"(43) STATIONARY SOURCE.—The term 'stationary source' means any integrated operation comprising any plant, building, structure, or stationary equipment, including support buildings and equipment, that is located within one or more contiguous or adjacent properties, is under common control of the same person or persons, and emits or may emit a greenhouse gas.

"(44) STRATEGIC RESERVE ALLOWANCE.—The term 'strategic reserve allowance' means an emission allowance reserved for, transferred to, or deposited in the strategic reserve, or established, under section 726.

"(45) TON OF CARBON DIOXIDE EQUIVALENT.—The term 'ton of carbon dioxide equivalent' has the meaning specified in section 712(a) or determined by the Administrator under section 711 or 712.

"(46) UNCAPPED EMISSIONS.—The term 'uncapped emissions' means emissions of greenhouse gases emitted after December 31, 2011, for which an emission allowance is not required to be held by either the source of the emission or by a covered entity under section 722.

"(47) UNITED STATES GREENHOUSE GAS EMISSIONS.—The term 'United States greenhouse gas emissions' means the total quantity of annual greenhouse gas emissions from the United States, as calculated by the Administrator and reported to the United Nations Framework Convention on Climate Change Secretariat.

"(48) UTILITY UNIT.—The term 'utility unit' means a fossil fuel-fired combustion device that, at any time after the date of enactment of this title, serves a generator that produces electricity for sale, except that a fossil fuel-fired combustion device that cogenerates steam and electricity is not a utility unit for purposes of this title unless the device is constructed for the purpose of supplying, or, after November 15, 1990,

supplies, more than one-third of its potential electric output capacity and more than 25 megawatts of electrical output for sale.

"(49) VINTAGE YEAR.—The term 'vintage year' means the calendar year for which an emission allowance is established under section 721(a), except that the vintage year for a strategic reserve allowance shall be the year in which such allowance is purchased at auction.".

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Title VII of the Clean Air Act, as added by section 311 of this Act, is amended by adding at the end the following part:

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SEC. 781. ALLOCATION OF ALLOWANCES FOR [INTERNATIONAL DEFORESTATION].

"(a) IN GENERAL.—The Administrator shall allocate emission allowances to be distributed in accordance with part E in the following amounts:

"(1) For vintage years 2012 through 2025, 5 percent of the emission allowances established for each year under section 721(a).

"(2) For vintage years 2026 through 2030, 3 percent of the emission allowances established for each year under section 721(a).

"(3) For vintage years 2031 through 2050, 2 percent of the emission allowances established for each year under section 721(a).

"(b) ADJUSTMENT.—The Administrator shall modify the percentages set forth in subsection (a) as necessary to ensure the achievement of the annual supplemental emission reduction objective for 2020 and the cumulative reduction target through 2025 set forth in 753(b).

"(c) CARRYOVER.—If the Administrator has not distributed all of the allowances allocated pursuant to this section for a given vintage year by the end of that year, the Administrator shall—

"(1) auction those emission allowances under section 791 not later than March 31 of the year following that vintage year; and

"(2) increase the allocation for the vintage year after the vintage year for which emission allowances were undisbursed by the amount of undisbursed emission allowances.

SEC. 782. DISBURSEMENT OF ALLOWANCES AND PROCEEDS FROM AUCTIONS OF ALLOWANCES.

"(a) ALLOCATION OF EMISSION ALLOWANCES.—The Administrator shall allocate emission allowances established under section 721(a) in the following amounts:[to be supplied]

"(b) AUCTION OF EMISSION ALLOWANCES.—The Administrator shall auction emission allowances established under section 721(a) in the following amounts:[to be supplied]

"(c) FUNDS ESTABLISHED.—There is established in the Treasury of the United States the following funds:

"(1) The Strategic Reserve Fund.

"(2) [Other funds to be supplied].

SEC. 783-789. [SECTIONS RESERVED].".

SEC. 790. EXCHANGE FOR STATE-ISSUED ALLOWANCES.

"(a) IN GENERAL.—Not later than one year after the date of enactment of this title, the Administrator shall issue regulations allowing any person in the United States to exchange greenhouse gas emission allowances issued before December 31, 2011, by the State of California or for the Regional Greenhouse Gas Initiative (in this section referred to as 'State allowances') for emission allowances established by the Administrator under section 721(a).

"(b) REGULATIONS.—Regulations issued under subsection (a) shall—

> "(1) provide that a person exchanging State allowances under this section receive emission allowances established under section 721(a) in the amount that is sufficient to compensate for the cost of obtaining and holding such State allowances;
>
> "(2) establish a deadline by which persons must exchange the State allowances; and
>
> "(3) provide that the Federal emission allowances disbursed pursuant to this section shall be deducted from the allowances to be auctioned pursuant to section 782(b).

"(c) COST OF OBTAINING STATE ALLOWANCE.—For purposes of this section, the cost of obtaining a State allowance shall be the average auction price for emission allowances issued in the year in which the State allowance was issued under the program under which the State allowance was issued.

SEC. 791. AUCTION PROCEDURES.

"(a) IN GENERAL.—To the extent that auctions of emission allowances by the Administrator are authorized by this part, such auctions shall be carried out pursuant to this section and the regulations established hereunder.

"(b) INITIAL REGULATIONS.—Not later than 12 months after the date of enactment of this title, the Administrator, in consultation with other agencies, as appropriate, shall promulgate regulations governing the auction

of allowances under this section. Such regulations shall include the following requirements:

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

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

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

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

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

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

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

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

"(c) REVISION OF REGULATIONS.—The Administrator may, in consultation with other agencies, as appropriate, at any time, revise the initial regulations promulgated under subsection (b) based on the Administrator's experience in administering allowance auctions. Such revised regulations need not meet the requirements identified in subsection (b) if the Administrator determines that an alternative auction design would be more effective, taking into account factors including costs of administration, transparency, fairness, and risks of collusion or manipulation. In determining whether and how to revise the initial regulations under this subsection, the Administrator shall not consider maximization of revenues to the Federal Government.

"(d) DELEGATION OR CONTRACT.—Pursuant to regulations under this section, the Administrator may by delegation or contract provide for the conduct of auctions under the Administrator's supervision by other departments or agencies of the Federal Government or by nongovernmental agencies, groups, or organizations.

SEC. 792. AUCTIONING ALLOWANCES FOR OTHER ENTITIES.

"(a) CONSIGNMENT.—Any entity in possession of emission allowances under this title may request that the Administrator auction, pursuant to section 791, the allowances on consignment.

"(b) ALLOWANCES FOR REDUCED DEFORESTATION.—For emission allowances distributed to a foreign country or other entity pursuant to section 754(c)(2), the Administrator shall act as such foreign country's or other entity's agent, sell the emission allowances at auction according to the

procedures established under section 791, and provide the proceeds directly to the foreign country or other entity.

"(c) PRICING.—When the Administrator acts under this section as the agent of an entity in possession of emission allowances, the Administrator is not obligated to obtain the highest price possible for the emission allowances, and instead shall auction consignment allowances in the same manner and pursuant to the same rules as auctions of other allowances under section 791. The Administrator may permit emission allowance owners to condition the sale of their allowances pursuant to this section on a minimum reserve price.

"(d) PROCEEDS.—For emission allowances auctioned pursuant to this section, notwithstanding section 3302 of title 31, United States Code, or any other provision of law, within 90 days of receipt, the United States shall transfer the proceeds from the auction to the entity which possessed the emission allowances auctioned. No funds transferred from a purchaser to a seller of emission allowances under this subsection shall be held by any officer or employee of the United States or treated for any purpose as revenue to the United States or the Administrator.

"(e) REGULATIONS.—The Administrator shall issue regulations within 24 months after the date of enactment of this title to implement this section.
".

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

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

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SEC. 811. STANDARDS OF PERFORMANCE.

"(a) UNCAPPED STATIONARY SOURCES.—

"(1) LIST OF SOURCE CATEGORIES .—(A) Within 12 months after the date of enactment of this title, the Administrator shall publish under section 111(b)(1)(A) a list of categories of stationary sources consisting of sources that individually had uncapped greenhouse gas emissions greater than 10,000 tons of carbon dioxide equivalent and that, in the aggregate, were responsible for emitting at least 20 percent of the uncapped greenhouse gas emissions.

"(B) The Administrator shall include on the list under this paragraph each source category that is responsible for at least 10 percent of the uncapped methane emissions. Notwithstanding any other provision, the list required by this section shall not include sources of enteric fermentation. The list under this paragraph shall include industrial sources, the emissions from which, when added to the capped emissions from industrial sources, constitute at least 95 percent of the greenhouse gas emissions of the industrial sector.

"(C) For purposes of this subsection, emissions shall be calculated using tons of carbon dioxide equivalents. In promulgating the list required by this paragraph and the schedule required under by paragraph (2)(C), the Administrator shall use the most current emissions data available at the time of publication.

"(2) STANDARDS AND SCHEDULE.—(A) For each category listed as provided in paragraph (1), the Administrator shall promulgate standards of performance under section 111 for the uncapped emissions of greenhouse gases from stationary sources in that category and shall promulgate corresponding regulations under section 111(d).

"(B) The Administrator shall promulgate standards as required by this subsection for stationary sources in categories listed as provided in paragraph (1) as expeditiously as practicable, assuring that—

"(i) standards for listed source categories that, combined, emitted 80 percent or more of the greenhouse gas emissions of the listed source categories shall be promulgated not later than 3 years after the date of the enactment of this title and shall include standards for natural gas extraction; and

"(ii) for all other listed source categories—

"(I) standards for not less than an additional 25 percent of the listed categories shall be promulgated not later than 5 years after the date of enactment of this title;

"(II) standards for not less than an additional 25 percent of the listed categories shall be promulgated not later than 7 years after the date of enactment of this title; and

"(III) standards for all the listed categories shall be promulgated not later than 10 years after the date of enactment of this title.

"(C) Not later than 24 months after the date of enactment of this title and after notice and opportunity for comment, the Administrator shall publish a schedule establishing a date for the promulgation of standards for each category of sources listed pursuant to paragraph (1). The date for each category shall be consistent with the requirements of subparagraph (B).

The determination of priorities for the promulgation of standards pursuant to this paragraph is not a rulemaking and shall not be subject to judicial review, except that failure to promulgate any standard pursuant to the schedule established by this paragraph shall be subject to review under section 304(a)(2).

"(D) Notwithstanding section 307, no action of the Administrator listing a source category under paragraph (1) shall be a final agency action subject to judicial review, except that any such action may be reviewed under section 307 when the Administrator issues performance standards for such category.

"(b) CAPPED SOURCES.—No standard of performance shall be established under section 111 for capped greenhouse gas emissions from a capped source. In promulgating a standard of performance under section 111 for the emission from capped sources of any air pollutant that is not a greenhouse gas, the Administrator shall treat the emission of any greenhouse gas by those entities as a nonair quality public health and environmental impact within the meaning of section 111(a)(1).

"(c) PERFORMANCE STANDARDS.— For purposes of setting a performance standard for source categories listed pursuant to subsection (a)—

"(1) The Administrator shall take into account the goal of reducing total United States greenhouse gas emissions as set forth in section 702.

"(2) The Administrator may promulgate a design, equipment, work practice, or operational standard, or any combination thereof, under section 111 in lieu of a standard of performance under that section without regard to any determination of feasibility that would otherwise be required under section 111(h).

"(3) Notwithstanding any other provision, in setting the level of each standard required by this section, the Administrator shall take into account projections of allowance prices, such that the marginal cost of compliance (expressed as

dollars per ton of carbon dioxide equivalent reduced) imposed by the standard would not, in the judgement of the Administrator, be expected to exceed the Administrator's projected allowance prices over the time period spanning from the date of initial compliance to the date that the next revisions of the standard would come into effect pursuant to the schedule under section 111(b)(1)(B).

"(d) DEFINITIONS.—In this section:

"(1) The terms 'uncapped greenhouse gas emissions' and 'uncapped methane emissions' mean those greenhouse gas or methane emissions, respectively, for which no covered entity would have been required to hold an allowance under section 722 if the requirements of this title had been in effect for the same year as the emissions data upon which the list is based.

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SEC. 831. CRITERIA POLLUTANTS.

"No greenhouse gas may be listed under section 108(a) on the basis of its effect on climate change.

SEC. 832. HAZARDOUS AIR POLLUTANTS.

"No greenhouse gas may be added to the list of hazardous air pollutants under section 112 unless such greenhouse gas meets the listing criteria of section 112(b) independent of its effects on climate change.

SEC. 833. NEW SOURCE REVIEW.

"The provisions of part C of title I shall not apply to a greenhouse gas solely on the basis of its effect on climate change or regulation under title VII or this title.

SEC. 834. TITLE V PERMITS.

"Notwithstanding any provision of title III or V, in determining whether a stationary source is required to apply for, or operate pursuant to, a permit

under title V, the Administrator shall not consider the source's greenhouse gas emissions.".

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(a) IN GENERAL.—Title VI of the Clean Air Act (42 U.S.C. 7671 and following) (relating to stratospheric ozone protection) is amended by adding the following new section to the end thereof:

"SEC. 619. HYDROFLUOROCARBONS (HFCS).

"(a) TREATMENT AS CLASS II, GROUP II SUBSTANCES.—Except as otherwise provided in this section, hydrofluorocarbons shall be treated as class II substances for purposes of applying the provisions of this title. The Administrator shall establish two groups of class II substances. Class II, group I, substances shall include all hydrochlorofluorocarbons (HCFCs) listed pursuant to section 602(b). Class II, group II substances shall include each of the following:

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

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

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

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

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

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

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

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

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

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

"(11) Hydrofluorocarbon-227ea (HFC-227ea).

"(12) Hydrofluorocarbon-236cb (HFC-236cb).

"(13) Hydrofluorocarbon-236ea (HFC-236ea).

"(14) Hydrofluorocarbon-236fa (HFC-236fa).

"(15) Hydrofluorocarbon-245ca (HFC-245ca).

"(16) Hydrofluorocarbon-245fa (HFC-245fa).

"(17) Hydrofluorocarbon-365mfc (HFC-365mfc).

"(18) Hydrofluorocarbon-43-10mee (HFC-43-10mee).

"(19) Hydrofluoroolefin-1234yf (HFO-1234yf).

"(20) Hydrofluoroolefin-1234ze (HFO-1234ze).

Not later than 6 months after the date of enactment of this title, the Administrator shall publish an initial list of class II, group II substances, which shall include the substances listed in this subsection. The Administrator may add to the list of class II, group II substances any other greenhouse gas listed by the Administrator pursuant to section 711 if that substance is used as a substitute for a class I or II substance. Within 24 months after the date of enactment of this section, the Administrator shall amend the regulations under this title (including the regulations referred to in sections 603, 608, 609, 610, 611, 612, and 613) to apply to class II, group II substances.

"(b) CONSUMPTION AND PRODUCTION OF CLASS II, GROUP II SUBSTANCES.—

"(1) PRODUCTION AND CONSUMPTION PHASE DOWN.— In the case of class II, group II substances, in lieu of applying section 605 and the regulations thereunder, the Administrator shall promulgate regulations phasing down the consumption and production of class II, group II substances in the United States and the importation of products containing any class II, group II substance in accordance with this subsection within 18 months after the date of enactment of this section. The Administrator shall ensure that the production of class II,

group II substances is phased down in accordance with the same schedule (subject to the same exceptions and other provisions) as is applicable to the phase-down of consumption of class II, group II substances under this title. Effective January 1, 2012, it shall be unlawful for any person to produce any class II, group II substance, import any class II, group II substance, or import any product containing any class II, group II substance without holding one consumption allowance or one destruction offset credit for each carbon dioxide equivalent ton of the class II, group II substance. To maintain the integrity of the class II, group II cap, the Administrator may, through rulemaking, limit the percentage of each person's compliance obligation that may be met through the use of destruction offset credits or banked allowances.

"(2) SCHEDULE.—Pursuant to the regulations promulgated pursuant to paragraph (1), the number of class II, group II consumption allowances established by the Administrator for each calendar year beginning in 2012 shall be the following percentage of the baseline, as established by the Administrator pursuant to paragraph (3):

"Calendar Year	Percent of Baseline
2012	96
2013	93
2014	90
2015	87
2016	84
2017	81
2018	78
2019	75
2020	72
2021	69
2022	66
2023	63
2024	60
2025	57
2026	54
2027	51
2028	48
2029	45
2030	42
2031	39
2032	36

"Calendar Year	Percent of Baseline
2033	33
2034	30
2035	27
2036	24
2037	21
2038	18
after 2038	15

"(3) BASELINE.—(A) Within 12 months after the date of enactment of this section, the Administrator shall promulgate regulations to establish the baseline for purposes of paragraph (2). The baseline shall be the sum of the annual average consumption of all class II substances in calendar years 2004, 2005, and 2006 and annual average quantity of all class II substances contained in imported products in calendar years 2004, 2005, and 2006, expressed in tons of carbon dioxide equivalents.

"(B) Notwithstanding subparagraph (A), if the Administrator determines that the baseline is higher than 380 million metric tons of carbon dioxide equivalents, then the Administrator shall establish the baseline at 380 million metric tons of carbon dioxide equivalents.

"(C) Notwithstanding subparagraph (A), if the Administrator determines that the baseline is lower than 280 million metric tons of carbon dioxide equivalents, then the Administrator shall establish the baseline at 280 million metric tons of carbon dioxide equivalents.

"(4) DISTRIBUTION OF ALLOWANCES.—

"(A) IN GENERAL.—Pursuant to the regulations promulgated under paragraph (1), for each calendar year beginning in 2012, the Administrator shall distribute allowances in accordance with this paragraph.

"(B) ESTABLISHMENT OF POOLS.—The Administrator shall establish two allowance pools. 80 percent of the consumption allowances available for a calendar year shall be placed in the producer-importer

pool and 20 percent of the consumption allowances available for a calendar year shall be placed in the secondary pool.

"(C) PRODUCER-IMPORTER POOL.—

"(i) AUCTION.—(I) For each calendar year, the Administrator shall offer for sale at auction the following percentage of the consumption allowances in the producer-importer pool:

"Calendar Year	Percent Available for Auction
2012	20
2013	30
2014	40
2015	50
2016	60
2017	70
2018	80
2019	90
after 2019	100

"(II) Any producer of a class II, group II substance or importer of a class II, group II substance may participate in the auction. No other persons may participate in the auction.

"(ii) NON-AUCTION SALE.—(I) For each calendar year, as soon as practicable after auction, the Administrator shall offer for sale the remaining consumption allowances in the producer-importer pool at a price equal to the clearing price of that year's auction.

"(II) The Administrator shall offer to sell the remaining consumption allowances to producers of class II, group II substances and importers of class II, group II substances in proportion to their relative class II substance production and/or importation during calendar years 2004, 2005, and 2006.

"(III) Any consumption allowances made available for non-auction sale to a specific producer or importer of class II, group II substances but not purchased by the specific producer or importer shall be made available for sale to any producer or importer of class II, group II substances during calendar years 2004, 2005, and 2006. If demand for such consumption allowances exceeds supply of such consumption allowances, the Administrator shall develop and utilize criteria for the distribution of such consumption allowances that may include pro rata shares, historic production and importation, economic or technical hardship, or other factors deemed relevant by the Administrator.

"(D) SECONDARY POOL.—(i) For each calendar year, as soon as practicable after the auction required in subparagraph (C), the Administrator shall offer for sale the consumption allowances in the secondary pool at a price equal to the clearing price of that year's auction.

"(ii) The Administrator shall accept applications for purchase of secondary pool consumption allowances from—

"(I) importers of products containing class II, group II substances;

"(II) persons who purchased any class II, group II substance directly from a producer or importer of class II, group II substances for use in a manufactured product, a manufacturing process, or a reclamation process;

"(III) persons who did not produce or import any class II, group II substance during calendar years 2004, 2005, or 2006 but who the Administrator determines have a genuine interest

in producing or importing any class II, group II substance;

"(IV) a producer or importer of any class II, group II substance during calendar years 2004, 2005, or 2006.

"(iii) If the supply of consumption allowances in the secondary pool equals or exceeds the demand for consumption allowances in the secondary pool as presented in the applications for purchase, the Administrator shall sell the consumption allowances in the secondary pool to the applicants in the amounts requested in the applications for purchase. Any consumption allowances in the secondary pool not purchased in a calendar year may be rolled over and added to the quantity available in the pool in the following year.

"(iv) If the demand for consumption allowances in the secondary pool as presented in the applications for purchase exceeds the supply of consumption allowances in the secondary pool, the Administrator shall distribute the consumption allowances as follows:

"(I) The Administrator shall first sell the consumption allowances in the secondary pool to any importers of products containing class II, group II substances in the amounts requested in their applications for purchase. If the demand for such consumption allowances exceeds supply of such consumption allowances, the Administrator shall develop and utilize criteria for the distribution of such consumption allowances among importers of products containing class II, group II substances that may include pro rata shares, historic importation, economic or technical hardship, or other factors deemed relevant by the Administrator.

"(II) The Administrator shall next sell any remaining consumption allowances to persons identified in subclauses (II) and (III) of clause (ii) in the amounts requested in their applications for purchase. If the demand for such consumption allowances exceeds remaining supply of such consumption allowances, the Administrator shall develop and utilize criteria for the distribution of such consumption allowances among subclauses (II) and (III) applicants that may include pro rata shares, historic use, economic or technical hardship, or other factors deemed relevant by the Administrator.

"(III) The Administrator shall then sell any remaining consumption allowances to producers or importers of any class II, group II substance during calendar years 2004, 2005, or 2006 in the amounts requested in their applications for purchase. If demand for such consumption allowances exceeds remaining supply of such consumption allowances, the Administrator shall develop and utilize criteria for the distribution of such consumption allowances that may include pro rata shares, historic production and importation, economic or technical hardship, or other factors deemed relevant by the Administrator.

"(E) DISCRETION TO WITHHOLD ALLOWANCES.—Nothing in this paragraph prevents the Administrator from exercising his discretion to withhold and retire consumption allowances that would otherwise be available for auction or non-auction sale.

"(5) BANKING .—A consumption allowance or destruction offset credit may be used to meet the compliance obligation requirements of paragraph (1) in—

"(A) the vintage year for the allowance or destruction offset credit; or

"(B) any calendar year subsequent to the vintage year for the allowance or destruction offset credit.

"(6) AUCTIONS.—

"(A) INITIAL REGULATIONS.—Not later than 18 months after the date of enactment of this section, the Administrator shall promulgate regulations governing the auction of allowances under this section. Such regulations shall include the following requirements:

"(i) FREQUENCY; FIRST AUCTION.—Auctions shall be held one time per year at regular intervals, with the first auction to be held no later than October 31, 2011.

"(ii) AUCTION FORMAT.—Auctions shall follow a single-round, sealed-bid, uniform price format.

"(iii) FINANCIAL ASSURANCE.—The Administrator may establish financial assurance requirements to ensure that auction participants can and will perform on their bids.

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

"(v) PUBLICATION OF INFORMATION.—After the auction, the Administrator shall, in a timely fashion, publish the number of bidders, number of winning bidders, the quantity of allowances sold, and the auction clearing price.

"(vi) BIDDING LIMITS.—No producer of any class II, group II substance or importer of any class II, group II substance may, directly or in concert with another participant, purchase more than 50 percent of the allowances of any vintage year offered for sale at any auction.

"(vii) OTHER REQUIREMENTS.—The Administrator may include in the regulations such other requirements or provisions as the Administrator considers necessary to promote effective, efficient, transparent, and fair administration of auctions under this section, including allowing a person to commit at auction to purchase and take possession of allowances after the auction.

"(B) REVISION OF REGULATIONS.—The Administrator may, at any time, revise the initial regulations promulgated under subparagraph (A) based on the Administrator's experience in administering allowance auctions. Such revised regulations need not meet the requirements identified in subparagraph (A) if the Administrator determines that an alternative auction design would be more effective, taking into account factors including costs of administration, transparency, fairness, and risks of collusion or manipulation. In determining whether and how to revise the initial regulations under this paragraph, the Administrator shall not consider maximization of revenues to the Federal Government.

"(7) IMPORTED PRODUCTS.—If the United States ratifies or otherwise adheres to an international agreement, including any amendment to the Montreal Protocol on Substances That Deplete the Ozone Layer, which restricts the production and consumption of class II, group II substances—

"(A) as of the date on which such international agreement becomes binding on all parties, it shall no

longer be unlawful for any person to import any product containing any class II, group II substance whose production and consumption is regulated by the Montreal Protocol without holding one consumption allowance or one destruction offset credit for each carbon dioxide equivalent ton of the class II, group II substance;

"(B) the Administrator shall promulgate regulations within 12 months of the date the United States ratifies or otherwise adheres to such international agreement to establish a new baseline for purposes of paragraph (2) which new baseline shall be the original baseline less the carbon dioxide equivalent of the annual average quantity of any class II substances contained in imported products in calendar years 2004, 2005, and 2006 that are restricted by such international agreement.

"(C) as of the date on which such international agreement becomes binding on all parties, no importer of any product containing any class II, group II substance regulated by the Montreal Protocol may, directly or in concert with another participant, purchase any allowances offered for sale by the Administrator; and

"(D) The Administrator may adjust the two allowance pools established in paragraph (4) such that up to 90 percent of the consumption allowances available for a calendar year are placed in the producer-importer pool with the remaining consumption allowances placed in the secondary pool.

"(8) OFFSETS.—

"(A) CHLOROFLUOROCARBON DESTRUCTION.— Within 18 months after the date of enactment of this section, the Administrator shall promulgate regulations to provide for the issuance of offset credits for the destruction, in the calendar year 2012 or later, of

chlorofluorocarbons in the United States. The Administrator shall establish and distribute to the destroying entity a quantity of destruction offset credits equal to .8 times the number of tons of carbon dioxide equivalents of reduction achieved through the destruction. No destruction offset credits shall be established for the destruction of a substance emitted as a byproduct.

"(B) DEFINITION.—For purposes of this paragraph, the term 'destruction' means the conversion of a substance by thermal, chemical, or other means to another substance with a very low carbon dioxide equivalent value and no ozone depletion potential.

"(C) REGULATIONS.—The regulations promulgated under this paragraph shall include standards and protocols for project eligibility, certification of destroyers, monitoring, tracking, destruction efficiency, quantification of project and baseline emissions and global warming potential, and verification. The Administrator shall ensure that destruction offset credits represent real and verifiable destruction of chlorofluorocarbons or other class I or class II, group I, substances authorized under subparagraph (D).

"(D) OTHER SUBSTANCES.—The Administrator may promulgate regulations to add to the list of class I and class II, group I, substances that can be destroyed for destruction offset credits, taking into account a candidate substance's carbon dioxide equivalent value, ozone depletion potential, prevalence in banks in the United States, and emission rates, as well as the need for additional cost containment under the class II, group II cap and the integrity of the class II, group II cap. The Administrator shall not add a class I or class II substance to the list if the substance has not been completely phased-out internationally pursuant to the Montreal Protocol.

"(E) EXTENSION OF OFFSETS.—(i) At any time after the Administrator promulgates regulations pursuant to subparagraph (A), the Administrator may add destruction offset credits to [the section of the Act addressing offsets in the main cap] for issuance in accordance with the standards and protocols established pursuant to subparagraph (C) in lieu of the regulations promulgated pursuant to [main cap offset section] except that the limitation in [main cap offset section limit] shall apply.

"(ii) The Administrator shall not make the addition under clause (i) unless the Administrator finds that insufficient destruction is occurring under this paragraph and that the addition would increase destruction.

"(c) DEADLINES FOR COMPLIANCE.—The January 2015 deadline specified in section 611(c) and 611(e) shall be January 1, 2012, in the case of class II, group II, substances. Notwithstanding the deadlines specified for class II substances in sections 608, 609, 610, 612, and 613 that occur prior to January 1, 2009, the deadline for promulgating regulations under those sections for class II, group II, substances shall be January 1, 2012.

"(d) EXCEPTIONS FOR ESSENTIAL USES.—Notwithstanding the phase down of production and consumption required by this section, to the extent consistent with any applicable international agreement to which the United States is a party or otherwise adheres, the Administrator may provide the following exceptions for essential uses:

"(1) MEDICAL DEVICES.—The Administrator, after notice and opportunity for public comment, and in consultation with the Commissioner of the Food and Drug Administration, may provide an exception for the production and consumption of class II, group II substances solely for use in medical devices.

"(2) AVIATION SAFETY.—The Administrator, after notice and opportunity for public comment, may authorize the production of limited quantities of class II, group II substances solely for the purposes of aviation safety if the Administrator of the Federal Aviation Administration, in consultation with

the Administrator, determines that no safe and effective substitute has been developed and that such authorization is necessary for aviation safety purposes.

"(e) DEVELOPING COUNTRIES.—Notwithstanding the phase down of production required by this section, the Administrator, after notice and opportunity for public comment, may authorize the production of limited quantities of class II, group II substances in excess of the amounts otherwise allowable under this section solely for export to, and use in, developing countries. Any production authorized under this subsection shall be solely for purposes of satisfying the basic domestic needs of such countries as provided in applicable international agreements, if any, to which the United States is a party or otherwise adheres.

"(f) NATIONAL SECURITY; FIRE SUPPRESSION, ETC..—The provisions of subsection (f) and paragraphs (1) and (2) of subsection (g) of section 604 shall apply to class II, group II substances in the same manner and to the same extent, consistent with any applicable international agreement to which the United States is a party or otherwise adheres, as such provisions apply to the substances specified in such subsection.

"(g) ACCELERATED SCHEDULE.—In lieu of section 606, the provisions of paragraphs (1), (2), and (3) of this subsection shall apply in the case of class II, group II substances.

"(1) IN GENERAL.—The Administrator shall promulgate regulations, after notice and opportunity for public comment, which establish a schedule for phasing down the production and consumption of class II, group II substances that is more stringent than the schedule set forth in this section if, based on the availability of substitutes, the Administrator determines that such more stringent schedule is practicable, taking into account technological achievability, safety, and other factors the Administrator deems relevant, or if the Montreal Protocol, or any applicable international agreement to which the United States is a party or otherwise adheres, is modified or established to include a schedule or other requirements to control or reduce production, consumption, or use of any class II, group II substance more rapidly than the applicable schedule under this section.

"(2) PETITION.—Any person may submit a petition to promulgate regulations under this subsection in the same manner and subject to the same procedures as are provided in section 606(b).

"(3) INCONSISTENCY.— If the Administrator determines that the provisions of this section regarding banking and destruction offset credits create a significant potential for inconsistency with the requirements of any applicable international agreement to which the United States is a party or otherwise adheres, the Administrator may promulgate regulations restricting the availability of banking and destruction offset credits to the extent necessary to avoid such inconsistency.

"(h) EXCHANGE.—Section 607(b) (relating to interpollutant transfers) shall apply in the case of exchanges of class II, group II substances production or consumption allowances on a carbon dioxide equivalent basis. In accordance with section 607(b)(3), no exchanges or transfers may take place between class II, group II substances and class II, group I substances.

"(i) LABELING.—(1) In applying section 611 to products containing or manufactured with class II, group II substances, in lieu of the words 'destroying ozone in the upper atmosphere' on labels required under section 611 there shall be substituted the words 'contributing to global warming'.

"(2) The Administrator may, through rulemaking, exempt products containing or manufactured with class II, group II substances determined to have a very low carbon dioxide equivalent value from the requirements of section 611.

"(j) NONESSENTIAL PRODUCTS.—For the purposes of section 610, class II, group II substances shall be regulated under section 610(b), except that in applying section 610(b) 'hydrofluorocarbon' shall be substituted for the word 'chlorofluorocarbon' and 'class II, group II,' shall be substituted for the term 'class I'. Class II, group II substances shall not be subject to the provisions of section 610(d).

"(k) MOTOR VEHICLE AIR CONDITIONERS.—

"(1) Section 609(e) of the Clean Air Act (42 U.S.C. 7671h(e)) is amended by inserting ', group I' after each reference to 'class II'.

(2) Section 609 of the Clean Air Act (42 U.S.C. 7671h) is amended by adding the following new subsection after subsection (e):

" '(f) CLASS II, GROUP II SUBSTANCES.—

" '(1) REPAIR.—The Administrator may promulgate regulations establishing requirements for repair of motor vehicle air conditioners prior to adding a class II, group II substance.

" '(2) SMALL CONTAINERS.—(A) The Administrator may promulgate regulations establishing servicing practices and procedures for recovery of class II, group II substances from containers which contain less than 20 pounds of such class II, group II substances.

" '(B) Not later than 18 months after enactment of this subsection, the Administrator shall either promulgate regulations requiring that containers which contain less than 20 pounds of a class II, group II substance be equipped with a device or technology that limits refrigerant emissions and leaks from the container and limits refrigerant emissions and leaks during the transfer of refrigerant from the container to the motor vehicle air conditioner or issue a determination that such requirements are not necessary or appropriate.

" '(C) Not later than 18 months after enactment of this subsection, the Administrator shall promulgate regulations establishing requirements for consumer education materials on best practices associated with the use of containers which contain less than 20 pounds of a

class II, group II substance and prohibiting the sale or distribution, or offer for sale or distribution, of any class II, group II substance in a container which contain less than 20 pounds of such class II, group II substance, unless consumer education materials consistent with such requirements are displayed and available at point-of-sale locations, provided to the consumer, or included in or on the packaging of the container which contain less than 20 pounds of a class II, group II substance.

" '(D) The Administrator may, through rulemaking, extend the requirements established under this paragraph to containers which contain 30 pounds or less of a class II, group II substance if the Administrator determines that such action would produce significant environmental benefits

" '(3) RESTRICTION OF SALES.—Effective January 1, 2014, no person may sell or distribute or offer to sell or distribute or otherwise introduce into interstate commerce any class II, group II substance as an automotive refrigerant in any size container unless the class II, group II substance has been found acceptable for use in a motor vehicle air conditioner under section 612.' ".

"(l) CARBON DIOXIDE EQUIVALENT VALUE.—In lieu of section 602(e), the provisions of this subsection shall apply in the case of class II, group II substances. Simultaneously with establishing the list of class II, group II substances, and simultaneously with any addition to that list, the Administrator shall publish the carbon dioxide equivalent value of each listed class II, group II substance, based on a determination of the number of metric tons of carbon dioxide that makes the same contribution to global warming over 100 years as 1 metric ton of each class II, group II substance.

"(m) REPORTING REQUIREMENTS.—In lieu of sections 603(b) and 603 c), the provisions of paragraphs (1) and (2) of this subsection shall apply in the case of class II, group II substances:

"(1) IN GENERAL.—On a quarterly basis, or such other basis (not less than annually) as determined by the Administrator, each person who produced, imported, or exported a class II, group II substance, or who imported a product containing a class II, group II substance, shall file a report with the Administrator setting forth the carbon dioxide equivalent amount of the substance that such person produced, imported, or exported, as well as the amount that was contained in products imported by that person, during the preceding reporting period. Each such report shall be signed and attested by a responsible officer. No such report shall be required from a person after April 1 of the calendar year after such person permanently ceases production, importation, and exportation of the substance, as well as importation of products containing the substance, and so notifies the Administrator in writing. If the United States ratifies or otherwise adheres to an international agreement that restricts the production and consumption of class II, group II substances, then no such report shall be required from a person with respect to importation of products containing any class II, group II substance restricted by such agreement after April 1 of the calendar year following the year during which such international agreement becomes binding on all parties.

"(2) BASELINE REPORTS FOR CLASS II, GROUP II SUBSTANCES.—Unless such information has been previously reported to the Administrator, on the date on which the first report under paragraph (1) of this subsection is required to be filed, each person who produced, imported, or exported a class II, group II substance, or who imported a product containing a class II, group II substance, (other than a substance added to the list of class II, group II substances after the publication of the initial list of such substances under this section), shall file a report with the Administrator setting forth the carbon dioxide equivalent amount of such substance that such person produced, imported, exported, or that was contained in products imported by that person, during each of calendar years 2004, 2005, and 2006. In the case of a substance added to the list of class II, group II substances after publication of the initial list of such substances under this section, each person

who produced, imported, exported, or imported products containing such substance in calendar year 2004, 2005, or 2006 shall file a report with the Administrator within 180 days after the date on which such substance is added to the list, setting forth the carbon dioxide equivalent amount of the substance that such person produced, imported, and exported, as well as the amount that was contained in products imported by that person, in calendar years 2004, 2005, and 2006"

(b) TABLE OF CONTENTS.—The table of contents for such title VI is amended by adding the following new item at the end thereof:

"Sec. 619. Hydrofluorocarbons (HFCs).".

(c) FIRE SUPPRESSION AGENTS.—Section 605(a) of the Clean Air Act (42 U.S.C. 7671(a)) is amended by striking "or" at the end of paragraph (2), striking the period at the end of paragraph (3) and inserting "; or" and adding the following new paragraph after paragraph (3):

"(4) is listed as acceptable for use as a fire suppression agent for nonresidential applications in accordance with section 612 (c) of the Clean Air Act.".

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(a) DEFINITION.—As used in this section, the term "black carbon" means the light absorbing component of carbonaceous aerosols.

(b) BLACK CARBON ABATEMENT REPORT.—Not later than one year after the date of enactment of this section, the Administrator shall, in consultation with other appropriate Federal agencies, submit to Congress a report regarding black carbon emissions. The report shall include the following:

(1) A summary of the current research that identifies—

(A) an inventory of the major sources of black carbon emissions in the United States and throughout the world, including—

(i) an estimate of the quantity of current and projected future emissions; and

(ii) the net climate forcing of the emissions from such sources, including consideration of co-emissions of other pollutants;

(B) effective and cost-effective control technologies, operations, and strategies for additional domestic and international black carbon emissions reductions, such as diesel retrofit technologies on existing on-road and off-road engines and programs to address residential cookstoves, forest burning, and other agriculture-based burning;

(C) potential metrics quantifying the climatic effects of black carbon emissions, including its radiative forcing and warming effects, that may be used to compare the climate benefits of different mitigation strategies, including an assessment of the uncertainty in such metrics; and

(D) the public health and environmental benefits associated with additional controls for black carbon emissions.

(2) Recommendations regarding—

(A) development of additional emissions monitoring techniques and capabilities, modeling, and other black carbon-related areas of study;

(B) areas of focus for additional study of technologies, operations, and strategies with the greatest potential to reduce emissions of black carbon; and

(C) actions, in addition to those identified by the Administrator under section 851 of the Clean Air Act (as amended by subsection (c)), the Federal Government may take to encourage or require reductions in black carbon emissions.

(c) BLACK CARBON MITIGATION.—Title VIII of the Clean Air Act, as added by section 331 of this Act, and amended by section 222 of this Act, is further amended by adding after part D the following new part:

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"(a) DOMESTIC BLACK CARBON MITIGATION.—Not later than one year after the date of enactment of this section, the Administrator, taking into consideration the public health and environmental impacts of black carbon emissions, including the effects on global warming, the Arctic, and other snow and ice-covered surfaces, shall propose regulations under the existing authorities of this Act to reduce emissions of black carbon or propose a finding that existing regulations promulgated pursuant to this Act adequately regulate black carbon emissions. Not later than two years after the date of enactment of this section, the Administrator shall promulgate final regulations under the existing authorities of this Act or finalize the proposed finding.

"(b) INTERNATIONAL BLACK CARBON MITIGATION.—

"(1) REPORT.—Not later than one year after the date of enactment of this section, the Administrator, in coordination with the Secretary of State and other appropriate Federal agencies, shall transmit a report to Congress on the amount, type, and direction of all present United States financial, technical, and related assistance to foreign countries to reduce, mitigate, and otherwise abate black carbon emissions.

"(2) OTHER OPPORTUNITIES.—The report required under paragraph (1) shall also identify opportunities and recommendations, including action under existing authorities, to achieve significant black carbon emission reductions in foreign countries through technical assistance or other approaches to—

"(A) promote sustainable solutions to bring clean, efficient, safe, and affordable stoves, fuels, or both stoves and fuels to residents of developing countries that are reliant on solid fuels such as wood, dung, charcoal, coal, or crop residues for home cooking and heating, so as to help reduce the public health, environmental, and economic impacts of black carbon emissions from these sources by—

"(i) identifying key regions for large-scale demonstration efforts, and key partners in each such region; and

"(ii) developing for each such region a large-scale implementation strategy with a goal of collectively reaching 20,000,000 homes over 5 years with interventions that will—

"(I) increase stove efficiency by over 50 percent (or such other goal as determined by the Administrator);

"(II) reduce emissions of black carbon by over 60 percent (or such other goal as determined by the Administrator); and

"(III) reduce the incidence of severe pneumonia in children under 5 years old by over 30 percent (or such other goal as determined by the Administrator);

"(B) make technological improvements to diesel engines and provide greater access to fuels that emit less or no black carbon;

"(C) reduce unnecessary agricultural or other biomass burning where feasible alternatives exist;

"(D) reduce unnecessary fossil fuel burning that produces black carbon where feasible alternatives exist;

"(E) reduce other sources of black carbon emissions; and

"(F) improve capacity to achieve greater compliance with existing laws to address black carbon emissions.".

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

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Section 116 of the Clean Air Act (42 U.S.C. 7416) is amended by adding the following at the end thereof: "For the purposes of this section, the phrases 'standard or limitation respecting emissions of air pollutants' and 'requirements respecting control or abatement of air pollution' shall include any provision to: cap greenhouse gas emissions, require surrender to the State or a political subdivision thereof of emission allowances or offset credits established or issued under this Act and require the use of such allowance or credits as a means of demonstrating compliance with requirements established by a State or political subdivision thereof.".

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Title VIII of the Clean Air Act, as added by section 331 of this Act and amended by several sections of this Act, is further amended by adding after part E (as added by section 333 of this Act) the following new part:

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SEC. 861. STATE PROGRAMS.

"Notwithstanding section 116, no State or political subdivision thereof shall implement or enforce a cap that covers any capped emissions emitted during the years 2012 through 2017. For purposes of this section, the term 'cap' means an absolute tonnage limit on the amount of greenhouse gases

that can be emitted by a group of sources over a specified time period and that does not vary with any other factor, including the number of sources covered, the amount of time the sources operate, and the production of the sources. For purposes of this section, the term 'cap' does not include, among other things, fleet-wide motor vehicle emission requirements that allow greater emissions with increased vehicle production, or requirements that fuels, or other products, meet an average pollution emission rate or lifecycle greenhouse gas standard.".

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(a) CITIZEN SUITS.—Section 304 of the Clean Air Act (42 U.S.C. 7604) is amended by adding the following new subsection at the end thereof:

"(h) (1) The persons authorized by subsection (a) to commence an action under this section shall include any person who has suffered, or reasonably expects to suffer, a harm attributable, in whole or in part, to a violation or failure to act referred to in subsection (a).

"(2) For purposes of this section, the term 'harm' includes any effect of air pollution (including climate change), currently occurring or at risk of occurring, and the incremental exacerbation of any such effect or risk that is associated with a small incremental emission of any air pollutant (including any greenhouse gas as defined in title VII), whether or not the effect or risk is widely shared.

"(3) For purposes of this section, an effect or risk associated with any air pollutant (including any greenhouse gas as defined in title VII) shall be considered attributable to the violation or failure to act concerned if the violation or failure to act slows the pace of implementation of this Act or compliance with this Act or results in any emission of greenhouse gas or other air pollutant at a higher level than would have been emitted in the absence of the violation or failure to act.".

(b) GENERAL JUDICIAL REVIEW.—Section 307(b) of the Clean Air Act (42 U.S.C. 7607(b)) is amended by adding the following new paragraphs at the end thereof:

"(3) (A) A petition for review may be filed under this section by any person who has suffered or reasonably expects to suffer a harm attributable, in whole or in part, to an action of the Administrator referred to in paragraph (1).

"(B) For purposes of this section, the term 'harm' may include any effect of air pollution (including climate change), currently occurring or at risk of occurring, and the incremental exacerbation of any such effect or risk that is associated with a small incremental emission of any air pollutant, (including any greenhouse gas as defined in title VII), whether or not the effect or risk is widely shared.

"(C) For purposes of this section, an effect or risk associated with any air pollutant (including any greenhouse gas as defined in title VII) shall be considered attributable to an action of the Administrator referred to in paragraph (1) concerned if the action slows the pace of implementation of this Act or compliance with this Act or results in any emission of greenhouse gas or other air pollutant at a higher level than would have been emitted in the absence of the action of the Administrator.

"(4) (A) If the court determines that any action of the Administrator is arbitrary, capricious, or otherwise unlawful, the court may remand such action, without vacatur, if vacatur would impair or delay protection of the environment or public health or otherwise undermine the timely achievement of the purposes of this Act.

"(B) If the court determines that any action of the Administrator is arbitrary, capricious, or otherwise unlawful, and remands the matter to the Administrator, the Administrator shall complete final action on remand within an expeditious time period no longer than the time originally allowed for the action or one year, whichever is less, unless the court on motion determines that a shorter or longer period is necessary, appropriate, and consistent with the purposes of this Act. The court of appeals shall have jurisdiction to enforce a deadline for action on remand under this subparagraph. ".

(c) PETITION FOR RECONSIDERATION.—Section 307(d)(7)(B) of the Clean Air Act (42 U.S.C. 7607(d)(7)(B)) is amended as follows:

(1) By inserting after the second sentence "If a petition for reconsideration is filed, the Administrator shall take final action on such petition, including promulgation of final action either revising or determining not to revise the action for which reconsideration is sought, within 150 days after the petition is received by the Administrator or the petition shall be deemed denied for the purpose of judicial review.".

(2) By amending the third sentence to read as follows: "Such person may seek judicial review of such denial, or of any other final action, by the Administrator, in response to a petition for reconsideration, in the United States court of appeals for the appropriate circuit (as provided in subsection (b)).".

(d) JUDICIAL REVIEW.—Part F of title VIII of the Clean Air Act, as added by section 335 of this Act, is amended by adding at the end the following new section:

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"(a) IN GENERAL.—With respect to a civil action under section 304 or a petition for review under section 307 alleging a Federal agency violation of, or failure to perform a nondiscretionary act or duty under, title VII or this title, the provisions of section 304 and section 307 apply except as otherwise expressly provided in this section.

"(b) COMMON CLAIMS.—When civil actions arising under title VII or this title are pending in the same court and involve one or more common questions of fact or common claims regarding the same alleged Federal agency violation or failure to act, the court may consolidate such claims into a single action for judicial review. When civil actions arising under title VII or this title are pending in different districts and involve one or more common questions of fact or common claims regarding the same alleged violation or failure to act, such actions may be consolidated pursuant to section 1407 of title 28, United States Code.

"(c) REMEDIES.—

"(1) IN GENERAL.—In addition to the remedies available under this Act, a court may provide the remedies specified in this subsection in the case of a violation of title VII or this title.

"(2) PAYMENT.—In any civil action alleging a violation of title VII or this title if the court finds that an agency has significantly violated title VII or this title in its failure to perform any nondiscretionary act or duty under title VII or this title, the court may award a payment, payable by the United States Treasury, to be used for a beneficial mitigation project recommended by the plaintiff or to compensate the plaintiff for any impact from global warming suffered by the plaintiff. The total payment for all claims by all plaintiffs in any such action shall not exceed the amount provided in section 1332(b) of title 28, United States Code. A court may deny a second payment under this section if the court determines that the plaintiff has filed multiple separate actions that could reasonably have been combined into a single action. No payment may be awarded under this paragraph for violations of an agency's obligation to collect or report information to the public. No court may award any payment under this paragraph in any given year if the cumulative payments awarded by courts under this paragraph in such year are equal to or greater than $1,500,000.

"(3) COSTS.—A court may award costs of litigation to any substantially prevailing plaintiff or to any other plaintiff whenever the court determines such an award is appropriate in the case of a violation of title VII or this title. Such an award is appropriate when such litigation contributes to the Federal agency's compliance with title VII or this title. For purposes of this paragraph, costs of litigation include reasonable attorney fees and expert fees.

"(4) EXCLUSIVE REMEDY.—Notwithstanding any other provision of Federal law—

"(A) no plaintiff who is awarded a payment under this subsection for a failure to perform a mandatory duty

under title VII or this title may be awarded a payment for such failure under any other Federal law; and

"(B) no plaintiff may be awarded a payment under this subsection for a failure to perform a mandatory duty under title VII or this title if the plaintiff has been awarded a payment for such failure under any other Federal law.".

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(a) FEDERAL ENFORCEMENT.—Section 113 of the Clean Air Act (42 U.S.C. 7413) is amended as follows:

(1) In subsection (a)(3), by striking "or title VI," and inserting "title VI, title VII, or title VIII".

(2) In subsection (b), by striking "or a major stationary source" and inserting "a major stationary source, or a covered EGU under title VIII," in the material preceding paragraph (1).

(3) In paragraph (2), by striking "or title VI" and inserting "title VI, title VII, or title VIII".

(4) In subsection (c)—

(A) in the first sentence of paragraph (1), by striking "or title VI (relating to stratospheric ozone control)," and inserting "title VI (relating to stratospheric ozone control), or title VII or VIII (relating to reduction of greenhouse gas emissions),"; and

(B) in the first sentence of paragraph (3), by striking "or VI" and inserting "VI, VII, VIII".

(5) In subsection (d)(1)(B), by striking "or VI" and inserting "VI, VII, or VIII".

(6) In subsection (f), in the first sentence, by striking "or VI" and inserting "VI, VII, or VIII".

(b) RETENTION OF STATE AUTHORITY.—Section 116 of the Clean Air Act (42 U.S.C. 7416) is amended as follows:

(1) By striking "and 233" and inserting "233".

(2) By striking "of moving sources)" and inserting "of moving sources), and 871 (preempting certain State greenhouse gas programs for a limited time)".

(c) INSPECTIONS, MONITORING, AND ENTRY.—Section 114(a) of the Clean Air Act (42 U.S.C. 7414(a)) is amended by striking "section 112," and all that follows through "(ii)" and inserting the following: "section 112, or any regulation of greenhouse gas emissions under title VII or VIII, (ii)".

(d) ENFORCEMENT.—Subsection (f) of section 304 of the Clean Air Act (42 U.S.C. 7604(f)) is amended as follows:

(1) By striking "; or" at the end of paragraph (3) thereof and inserting a comma.

(2) By striking the period at the end of paragraph (4) thereof and inserting ", or".

(3) By adding the following after paragraph (4) thereof:

"(5) any requirement of title VII or VIII.".

(e) ADMINISTRATIVE PROCEEDINGS AND JUDICIAL REVIEW.—Section 307 of the Clean Air Act (42 U.S.C. 7607) is amended as follows:

(1) In subsection (a), by striking ", or section 306" and inserting "section 306, or title VII or VIII".

(2) In subsection (b)(1)—

(A) by striking ",," and inserting "," in each place such punctuation appears; and

(B) by striking "section 120," in the first sentence and inserting "section 120, any final action under title VII or VIII,".

(3) In subsection (d)(1) by amending subparagraph (S) to read as follows:

"(S) the promulgation or revision of any regulation under title VII or VIII,".

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The purposes of this part are as follows:

(1) To prevent an increase in greenhouse gas emissions in countries other than the United States as a result of direct and indirect compliance costs incurred under title VII of the Clean Air Act.

(2) To compensate the owners and operators of entities in eligible domestic industrial sectors and subsectors for carbon emission costs incurred under title VII of the Clean Air Act.

(3) To limit compensation to the owners and operators of entities in eligible industrial sectors and subsectors to an amount that will prevent carbon leakage while also rewarding innovation and facility-level investments in energy efficiency performance improvements.

(4) To provide compensation to the owners and operators of entities in eligible industrial sectors and subsectors for the costs of directly and indirectly purchasing emission allowances needed for compliance with title VII of the Clean Air Act, but not for costs associated with other related or unrelated market dynamics.

(5) To eliminate or reduce distribution of rebates under this part when such distribution is no longer necessary to prevent carbon leakage from eligible sectors or subsectors.

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(a) IN GENERAL.—Except as otherwise noted, for purposes of this part, terms that are defined in title VII of the Clean Air Act shall have the meanings given those terms in title VII.

(b) OTHER DEFINITIONS.—In this part:

(1) The term "carbon leakage" means any substantial increase (as determined by the Administrator) in greenhouse gas emissions by manufacturing entities located in countries without commensurate greenhouse gas regulation, provided that such increase is caused by an incremental cost of production increase in the United States resulting from the implementation of title VII of the Clean Air Act.

(2) The term "output" means the total tonnage or other standard unit of production (as determined by the Administrator) produced by a manufacturing entity.

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(a) DISTRIBUTION OF REBATES.—

(1) IN GENERAL.—The Administrator shall annually distribute rebates, in amounts calculated under subsection (c),

to the owners and operators of entities in eligible industrial sectors and subsectors designated under subsection (b), subject to the maximum quantity limitation established under paragraph (2) of this subsection.

(2) MAXIMUM.—If the total rebates calculated under subsection (c) exceed the amount authorized for this program, the Administrator shall reduce the amount distributed to owners and operators under paragraph (1) on a pro rata basis.

(3) LIST.—Not later than February 1 of each year starting in 2012, the Administrator shall publish in the Federal Register a list of eligible industrial sectors and subsectors pursuant to subsection (b) and the amount of the rebate per unit of production that shall be provided to entities in each eligible industrial sector in the following calendar year.

(b) ELIGIBLE INDUSTRIAL SECTORS AND SUBSECTORS.—

(1) IN GENERAL.—Not later than January 1, 2011, the Administrator shall promulgate a rule designating, based on the criteria under paragraph (2), the industrial sectors and subsectors eligible for rebates under this part.

(2) PRESUMPTIVELY ELIGIBLE SECTORS AND SUBSECTORS.—An owner or operator of an entity shall receive rebates under subsection (a) if such source is in a sector or subsector that is included in a six-digit classification of the North American Industrial Classification System that meets the criteria under subparagraphs (A) and (B). The Administrator may rescind the eligibility of such sector or subsector only if the Administrator determines, after notice and an opportunity for comment, that, even in the absence of the rebates distributed under this section, such sector or subsector would not be subject to carbon leakage.

(A) ENERGY OR GREENHOUSE GAS INTENSITY.—As determined by the Administrator, the sector or subsector had—

(i) an energy intensity of at least 5 percent, calculated by dividing the cost of purchased electricity and fuel costs of the sector or subsector by the value of the shipments of the sector or subsector, based on data described in subparagraph (C); or

(ii) a greenhouse gas intensity of at least 5 percent, calculated by dividing—

(I) [insert EPA projected allowance price for the year 2020 when it is provided to the Committee] multiplied by the tons of carbon dioxide equivalent greenhouse gas emissions (including direct emissions from fuel combustion, process emissions, and indirect emissions from the generation of electricity used to produce the output of a sector or subsector) of the sector or subsector; by

(II) the value of the shipments of the sector or subsector, based on data described in subparagraph (C).

(B) TRADE INTENSITY.—As determined by the Administrator, the sector or subsector had a trade intensity of at least 15 percent, calculated by dividing the value of the total imports and exports of such sector or subsector by the value of the shipments plus the value of imports of such sector or subsector, based on data described in subparagraph (C).

(C) DATA SOURCES.—

(i) ELECTRICITY AND FUEL COSTS, VALUE OF SHIPMENTS.—For purposes of this subsection, the Administrator shall determine electricity and fuel costs and the value of shipments from data from years 2006, 2007, or 2008 from the United

States Census of Mineral Industries and the United States Census Annual Survey of Manufacturers (using data from the most recent year that is available, up to and including 2008), or, if such data are unavailable, from data from the 2002 or 2006 Energy Information Agency's Manufacturing Energy Consumption Survey (using 2006 data if it is available) and the 2002 or 2007 Economic Census of the United States (using 2007 data if it is available). The Administrator shall use Manufacturing Energy Consumption Survey data from the most detailed industrial classification level if such data is available. If data from the Manufacturing Energy Consumption Survey are unavailable for any sector or subsector at the six-digit classification level in the North American Industrial Classification System, then the Administrator may extrapolate the information necessary to determine the eligibility of a sector or subsector under this paragraph from available Manufacturing Energy Consumption Survey data pertaining to a broader industrial category classified in the North American Industrial Classification System. Fuel cost data shall not include the cost of fuel used as feedstock by an industrial sector or subsector.

(ii) IMPORTS AND EXPORTS.—For purposes of this subsection, the Administrator may establish the value of imports and exports by using United States International Trade Commission data.

(iii) PERCENTAGES.—The Administrator shall round the energy intensity, greenhouse gas intensity, and trade intensity percentages under subparagraphs (A) and (B), respectively, to the nearest whole number.

(iv) GREENHOUSE GAS EMISSION CALCULATIONS.—When calculating the tons of carbon dioxide equivalent greenhouse gas emissions for each sector or subsector under subsection (b)(2)(A), the Administrator may, to the extent necessary with respect to a sector or subsector, use economic and engineering models and the best available information on technology performance levels for such sector or subsector.

(3) INDIVIDUAL SHOWING.—The owner or operator of an entity in a sector or subsector shall receive rebates under subsection (a) if the Administrator determines that sufficient evidence exists that such sector or subsector should be treated separately from the other sectors or subsectors in the same six-digit section of the North American Industrial Classification System code and that the sector or subsector meets the energy or greenhouse gas intensity and trade intensity criteria in paragraph (2).

(4) ADMINISTRATIVE DETERMINATION OF ADDITIONAL ELIGIBLE SECTORS OR SUBSECTORS.—

(A) Any person may petition the Administrator to designate, by rule, as eligible under this subsection any sector or subsector that does not meet the criteria under paragraph (2) or (3) but demonstrates to the satisfaction of the Administrator that it is subject to carbon leakage, comparable to that of sectors or subsectors that meet the criteria under paragraph (2) or (3).

(B) In determining whether a sector or subsector is subject to carbon leakage, the Administrator, in consultation with other Federal agencies, as appropriate, shall take into account, in addition to the sector or subsector's energy or greenhouse gas intensity and trade intensity as calculated under paragraph (2), each of the following:

(i) The potential for greater foreign sourcing of production or services and the effect of international competition on domestic production.

(ii) The effect of international markets on product pricing.

(iii) The potential for net imports to increase, or exports to decrease (resulting in a loss of market share held by domestic manufacturers to manufacturers located in other countries), as a result of the direct and indirect compliance costs of title VII of the Clean Air Act.

(iv) The state of international negotiations, agreements, and activities to reduce global greenhouse gas emissions.

(C) For the purposes of subsection (b)(4), section (b)(2)(C) shall be modified to require the Administrator to use the most recent data available for value of shipments from the listed sources.

(c) CALCULATION OF REBATES.—

(1) COVERED ENTITIES.—Except as provided in subsection (a)(2), the quantity of rebates distributed by the Administrator under this section for a calendar year to the owner or operator of a covered entity shall be equal to the sum of the covered entity's direct compliance factor and the covered entity's indirect carbon factor. Calculations under this paragraph shall be based on the average of the best available data from the calendar years that are 2 and 3 calendar years prior to the calendar year of distribution. For purposes of determining such amounts for each calendar year:

(A) DIRECT COMPLIANCE FACTOR.—The direct compliance factor for a covered entity for a calendar year is the product of—

(i) the output of the covered entity; and

(ii) 85 percent of the average greenhouse gas emissions (expressed in tons of carbon dioxide equivalent) per unit of output for all covered entities in the sector or subsector, as determined by the Administrator based on reports provided under subparagraph (C).

(B) INDIRECT CARBON FACTOR.—The indirect carbon factor for an entity for a calendar year is the product obtained by multiplying the output of the covered entity by both the emissions intensity factor determined pursuant to clause (i) and the electricity efficiency factor determined pursuant to clause (ii) for the year concerned.

(i) EMISSIONS INTENSITY FACTOR.—

(I) REGULATED ELECTRICITY MARKETS.—In a regulated electricity market, the emissions intensity factor is the average greenhouse gas emissions (expressed in tons of carbon dioxide equivalents) per kilowatt hour of the electricity purchased by the covered entity, as determined by the Administrator based on reports provided under subparagraph (D).

(II) WHOLESALE COMPETITIVE ELECTRICITY MARKETS.—In a wholesale competitive electricity market, the emissions intensity factor is the average greenhouse gas emissions (expressed in tons of carbon dioxide equivalents) per kilowatt hour of the marginal source of supply of electricity purchased by the covered entity, as determined by the Administrator based on reports provided under subparagraph (D).

(ii) ELECTRICITY EFFICIENCY FACTOR.—The electricity efficiency factor is 85 percent of the average amount of electricity (in kilowatt hours) used per unit of output for all covered entities in the relevant sector or subsector, as determined by the Administrator based on reports provided under subparagraph (C).

(C) REPORT TO ADMINISTRATOR.—Each owner or operator of an entity in any sector or subsector designated under subsection (b) and each department, agency, and instrumentality of the United States shall provide the Administrator with such information as the Administrator finds necessary to determine the direct compliance factor and the indirect carbon factor for each covered entity subject to this section.

(D) GREENHOUSE GASES FROM ELECTRICITY.—Each person selling electricity to the owner or operator of an entity in any sector or subsector designated under subsection (b) shall provide the owner or operator of the entity and the Administrator, on a quarterly basis, such information as is required to determine the emissions intensity factor under subparagraph (B)(i).

(E) EMISSIONS INTENSITY FACTOR REDUCTION.—In calculating the average tons of carbon dioxide equivalents of greenhouse gas emissions for the numerator of the emissions intensity factor under subparagraph (B)(i), the Administrator shall reduce the actual, total tonnage (expressed in tons of carbon dioxide equivalents) used by the value of any funding or allowances the Administrator determines are distributed at no cost under this Act to the person making the sale of electricity and are used by such person to prevent electricity rate increases to the owner or operator of the entity.

(F) IRON AND STEEL SECTOR OR SUBSECTORS.—For the purposes of determining the amount of rebates to

be distributed under this section to the owner or operator of any iron and steel manufacturing entity in a sector or subsector designated under subsection (b), the Administrator shall consider as in different sectors and subsectors entities using integrated iron and steelmaking technologies (including coke ovens, blast furnaces, and other iron-making technologies) and entities using electric arc furnace technologies.

(2) OTHER ELIGIBLE ENTITIES.—The amount of rebates distributed by the Administrator for a calendar year to an owner or operator of an entity that is in an eligible industrial sector or subsector, but is not a covered entity, shall be equal to the indirect carbon factor for the entity, as determined under paragraph (1)(B). Calculations under this paragraph shall be based on the average of the best available data from the calendar years that are 2 and 3 calendar years prior to the calendar year of distribution.

(3) INITIAL YEARS OF OPERATION.—The Administrator shall issue regulations governing the distribution of rebates for the first and second years of operation of an entity entitled to rebates under this part. These regulations shall provide for—

(A) the distribution of rebates to such entities based on comparable entities in the same sector or subsector; and

(B) an adjustment in the third year of operation to reconcile the total amount of rebates received during the first and second years of operation to the amount the entity would have received during the first and second years of operation had the appropriate data been available.

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Not later than one year after the first year in which rebates is distributed pursuant to this part, and at least every two years thereafter, the

Administrator, in consultation with other Federal agencies, as appropriate, shall transmit to Congress a report on the carbon leakage of domestic industrial manufacturers and the effectiveness of the distribution of rebates under section 403 in achieving the purposes of this part. Such reports shall include recommendations on how to better achieve the purposes of this part.

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(a) ANNUAL PHASE DOWN SUBJECT TO ANNUAL REVIEW.—

(1) REDUCTION.—The rebates provided to a covered entity shall equal a percentage multiplied by the sum of the entity's direct compliance factor and the entity's indirect carbon factor. The rebates provided to an entity that is in an eligible sector or subsector but is not a covered entity shall equal that same percentage multiplied by the entity's indirect carbon factor. This percentage shall equal 100 percent for each calendar year through 2020. Subject to paragraph (2), beginning in calendar year 2021, and in each calendar year thereafter, this percentage shall be reduced by 10 percentage points annually.

(2) REVIEW.—If the President, determines that other countries have not taken actions that have substantially mitigated the risk that domestic companies in a particular sector or subsector will reduce existing, or not initiate new, production in the United States due to the costs of complying with this title, then the Administrator shall, by rule, reduce or eliminate the reduction under paragraph (1) to reflect such risk. The Administrator may reduce or eliminate the reduction under paragraph (1) for individual sectors or aggregates of sectors and subsectors, as appropriate.

(b) ANNUAL REVIEW FOR ELIMINATION.—Each calendar year after 2020, the Administrator may eliminate the distribution of rebates to the owners and operators of entities in an eligible sector or subsector if the Administrator, in consultation with other Federal agencies, as appropriate, determines that more than 70 percent of the global output from a sector or

subsector is manufactured in countries subject to commensurate greenhouse gas regulation. In making such determination, the Administrator shall consider a country to have commensurate greenhouse gas regulation if—

(1) the country's annual greenhouse gas intensity or energy intensity (as described in section 403(b)) for a sector or subsector is equal to or less than the greenhouse gas intensity or energy intensity for such sector or subsector in the United States in the most recent calendar year for which reliable data are available; or

(2) the country has implemented policies, including sectoral caps, export tariffs, or production fees, that individually or collectively place a price on greenhouse gas emissions from a sector or subsector that is at least 60 percent of the cost of complying with title VII of the Clean Air Act in the United States for such sector or subsector, averaged over a two-year period.

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If, as determined by the Administrator, an entity is no longer in an eligible sector or subsector designated under section 403(b), the Administrator shall not distribute rebates to the owner or operator of such facility under this part.

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To carry out this part, there are authorized to be appropriated such sums as may be necessary.

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In this part:

(1) COVERED GOOD.—The term "covered good" means a good that, as identified by the Administrator by regulation—

(A) is a primary product;

(B) generates, in the course of the manufacture of the good, a substantial quantity of direct greenhouse gas emissions or indirect greenhouse gas emissions; and

(C) is closely related to a good of the United States that is affected by a requirement of title VII of the Clean Air Act.

(2) INDIRECT GREENHOUSE GAS EMISSIONS.—The term "indirect greenhouse gas emissions" means greenhouse gas emissions resulting from the generation of electricity consumed in manufacturing a covered good.

(3) PRIMARY PRODUCT.—The term "primary product" means—

(A) iron, steel, steel mill products (including pipe and tube), aluminum, cement, glass (including flat, container, and specialty glass and fiberglass), pulp, paper, chemicals, and industrial ceramics; and

(B) any other manufactured product that—

(i) is sold in bulk for purposes of further manufacture or inclusion in a finished product; and

(ii) generates, in the course of the manufacture of the product, direct greenhouse gas emissions or indirect greenhouse gas emissions

that are comparable (on an emissions-per-output basis) to emissions generated in the manufacture of products listed in subparagraph (A).

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The purposes of this part are—

(1) to promote a strong global effort to significantly reduce greenhouse gas emissions;

(2) to ensure, to the maximum extent practicable, that greenhouse gas emissions occurring outside the United States do not undermine the objectives of the United States in addressing global climate change; and

(3) to encourage effective international action to achieve those objectives through—

(A) agreements negotiated between the United States and foreign countries; and

(B) measures carried out by the United States that comply with applicable international agreements.

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(a) FINDING.—Congress finds that the purposes described in section 412 can be most effectively addressed and achieved through agreements negotiated between the United States and foreign countries.

(b) STATEMENT OF POLICY.—It is the policy of the United States to work proactively under the United Nations Framework Convention on Climate Change and, in other appropriate forums, to establish binding agreements committing all major greenhouse gas-emitting nations to contribute equitably to the reduction of global greenhouse gas emissions.

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(a) REPORT TO CONGRESS.—Not later than June 30, 2017, the President, in consultation with the Environmental Protection Agency and other appropriate agencies, shall submit to Congress a report on—

(1) the extent to which direct and indirect compliance costs incurred pursuant to title VII of the Clean Air Act have resulted in, or are likely to result in—

(A) a reduction in existing, or failure to initiate new, domestic production in sectors or subsectors that produce or manufacture covered goods;

(B) a reduction in existing, or failure to initiate new, domestic jobs in sectors or subsectors that manufacture or produce covered goods; and

(C) an increase in greenhouse gas emissions—

(i) by foreign manufacturing facilities that manufacture or produce covered goods and that do not have greenhouse gas compliance obligations commensurate with those that would apply in the United States; and

(ii) that are caused by incremental cost increases resulting from compliance with title VII of the Clean Air Act;

(2) the extent to which the funding provided, or expected to be provided, pursuant to part 1 has mitigated or addressed the factors listed in paragraph (1); and

(3) the level of greenhouse gas regulation (including requirements, export tariffs, or other measures adopted to imposed to reduce greenhouse gas emissions) of particular sectors or subsectors in other developed and developing countries, and the cost of compliance with those regulations,

taking into account the distribution of allowances, credits, or rebates.

(b) FINDING.—The President shall also make a finding as to whether the direct and indirect compliance costs, as mitigated by funding provided under part 1, are causing any of the adverse effects listed below. If the President determines that direct and indirect costs, after mitigated by rebates provided under part 1, to a sector or subsector of complying with title VII of the Clean Air Act are causing a significant—

(1) reduction in existing, or failure to initiate new, domestic production in any sector or subsector that manufactures or produces covered goods;

(2) reduction in existing, or failure to initiate new, domestic jobs in any sector or subsector that manufacture or produce covered goods; or

(3) increase in greenhouse gas emissions—

(A) by foreign manufacturing facilities that manufacture or produce covered goods and that do not have greenhouse gas compliance obligations commensurate with those that would apply in the United States; and

(B) that are caused by incremental cost increases resulting from compliance with title VII of the Clean Air Act;

then the President shall issue regulations creating the program authorized by section 416.

(c) DELEGATION.—The President may delegate his responsibilities under this section to an appropriate agency, department, or official of the United States Government.

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After the effective date of regulations issued by the Administrator under section 416(a), no person may import into the United States a covered good without submitting the required number of international reserve allowances in accordance with such regulations.

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(a) ESTABLISHMENT.—

(1) IN GENERAL.—If the President makes an affirmative determination under section 414(b), then, not later than 24 months after that determination, the Administrator shall issue regulations—

(A) establishing, determining an appropriate price for, and offering for sale to United States importers international reserve allowances;

(B) requiring the submission of appropriate amounts of such allowances in conjunction with the importation into the United States of a covered good produced by any sector or subsector for which the President made an affirmative finding under section 414(b); and

(C) exempting from the requirements of subparagraph (B) covered goods produced in—

(i) foreign countries that the United Nations has identified as among the least developed of developing countries; or

(ii) foreign countries that the President has determined to be responsible for less than 0.5 percent of total global greenhouse gas emissions.

(2) PURPOSE OF PROGRAM.—The Administrator shall establish the program under paragraph (1) in a manner that addresses, consistent with international agreements to which the United States is a party, the competitive imbalance in the

costs of producing or manufacturing covered goods in affected sectors or subsectors resulting from the difference in—

(A) the direct and indirect costs of complying with title VII of the Clean Air Act; and

(B) the direct and indirect costs, if any, of complying in other countries with greenhouse gas regulatory programs, requirements, export tariffs, or other measures adopted or imposed to reduce greenhouse gas emissions.

(b) COVERED FACILITIES.—International reserve allowances may not be held by covered entities to comply with the compliance obligations of section 722 of the Clean Air Act.

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(a) AUTHORIZATION.—The Secretary of Education is authorized to award grants, on a competitive basis, to eligible partnerships to develop programs of study (containing the information described in section 122(c)(1)(A) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2342), that are focused on emerging careers and jobs in renewable energy, energy efficiency, and climate change mitigation.

(b) ELIGIBLE PARTNERSHIPS.—For purposes of this section, an eligible partnership shall include—

(1) at least 1 local education agency eligible for funding under section 131 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2351) or an area career and technical education school or education service agency described in such section;

(2) at least 1 postsecondary institution eligible for funding under section 132 of such Act (20 U.S.C. 2352); and

(3) representatives of the community including business, labor organizations, and industry that have experience in clean energy.

(c) APPLICATION.—An eligible partnership seeking a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require. Applications shall include—

(1) a description of the eligible partners and partnership, the roles and responsibilities of each partner, and a demonstration of each partner's capacity to support the program;

(2) a description of the career area or areas within the field of clean energy to be developed, the reason for the choice, and evidence of the labor market need to prepare students in that area;

(3) a description of the new or existing program of study and both secondary and postsecondary components;

(4) a description of the students to be served by the new program of study;

(5) a description of how the program of study funded by the grant will be replicable and disseminated to schools outside of the partnership, including urban and rural areas;

(6) a description of applied learning that will be incorporated into the program of study and how it will incorporate or reinforce academic learning;

(7) a description of how the program of study will be delivered;

(8) a description of how the program will provide accessibility to students, especially economically

disadvantaged, low performing, and urban and rural students; and

(9) a description of how the program will address placement of students in nontraditional fields as described in section 3(20) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302(20)).

(d) PRIORITY.—The Secretary shall give priority to applications that—

(1) use online learning or other innovative means to deliver the program of study to students, educators, and instructors outside of the partnership; and

(2) focus on low performing students and special populations as defined in section 3(29) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302(29)).

(e) PEER REVIEW.—The Secretary shall convene a peer review process to review applications for grants under this section and to make recommendations regarding the selection of grantees. Members of the peer review committee shall include—

(1) educators who have experience implementing curricula with comparable purposes; and

(2) business and industry experts in clean energy-related fields.

(f) USES OF FUNDS.—Grants awarded under this section shall be used for the development, implementation, and dissemination of programs of study (as described in section 122(c)(1)(A) of the Carl D. Perkins Career and Technical Education Act (20 U.S.C. 342(c)(1)(A))) in career areas related to clean energy.

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(a) DEFINITION.—In this section, the term "institution of higher education" has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(b) IN GENERAL.—From funds made available under subsection (e), the Secretary of Labor shall carry out a sustainability workforce training and education program. In carrying out the program, the Secretary shall award grants to institutions of higher education to provide workforce training and education in industries and practices, such as—

(1) clean energy, including wind, solar, and geothermal energy;

(2) green construction, green retrofitting, and green design;

(3) green chemistry,

(4) water and energy conservation;

(5) recycling and waste reduction;

(6) sustainable agriculture and farming;

(7) sustainable culinary practices;

(8) Smart Grid technology, design, and deployment;

(9) advanced vehicle technology, including plug-in electric drive vehicles; and

(10) electric power transmission systems, including upgrading and reconductoring.

(c) AWARD CONSIDERATIONS.—Of the funds made available under subsection (b) for a fiscal year, not less than half shall be awarded to institutions of higher education with existing (as of the date of the award) academic programs that lead to certificates or degrees in 1 or more of the industries and practices described in paragraphs (1) through (10) of subsection (b).

(d) PEER REVIEW.—The Secretary shall convene a peer review process to review applications for grants under this section and to make recommendations regarding the selection of grantees. Members of the peer review committee shall include—

(1) educators who have relevant experience in implementing curricula with comparable aims and subject matter; and

(2) business and industry experts who work in clean energy-related fields.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for fiscal year 2009 and each subsequent fiscal year.

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Each recipient of support under the provisions of this subtitle or subtitle J of title I of the National and Community Service Act of 1990 (42 U.S.C. 12511 et seq.) shall provide reasonable assurance that all those employed in the performance of programs authorized under those provisions, including those employed by contractors or subcontractors, will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of part A of subtitle II of title 40, United States Code (commonly referred to as the "Davis-Bacon Act").

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The purposes of this subtitle are—

(1) to provide United States assistance to encourage widespread deployment, in developing countries, of technologies that reduce greenhouse gas emissions; and

(2) to provide such assistance in a manner that encourages such countries to adopt policies and measures that substantially reduce emissions of greenhouse gases.

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In this subtitle:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committees on Energy and Commerce and Foreign Affairs of the House of Representatives; and

(B) the Committees on Environment and Public Works, Energy and Natural Resources, and Foreign Relations of the Senate.

(2) DEVELOPING COUNTRY.—The term "developing country" means a country eligible to receive financial

assistance from the International Bank for Reconstruction and Development (commonly known as the World Bank).

(3) ELIGIBLE COUNTRY.—The term "eligible country" means a developing country that is determined by the President under section 454 to be eligible to receive assistance from the International Clean Technology Fund.

(4) INTERAGENCY GROUP.—The term "interagency group" means the group established by the President under section 453 to administer the International Clean Technology Fund.

(5) INTERNATIONAL CLEAN TECHNOLOGY FUND.—The term "International Clean Technology Fund" means the International Clean Technology Fund established under section 453.

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(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States an International Clean Technology Fund.

(b) INTERAGENCY GROUP.—The President shall establish an interagency group to administer the International Clean Technology Fund. The Members of the interagency group shall include—

(1) the Secretary of State;

(2) the Administrator of the Environmental Protection Agency;

(3) the Secretary of Energy;

(4) the Secretary of the Treasury; and

(5) any other head of a Federal agency or executive branch appointee that the President may designate.

(c) CHAIRPERSON.—The Secretary of State shall serve as the chairperson of the interagency group.

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(a) PUBLICATION AND REVISION OF LIST.—Not later than January 1, 2012, and annually thereafter, the President shall determine and publish a list of countries eligible for assistance under this subtitle.

(b) CRITERIA FOR ELIGIBILITY.—The criteria for designation as an eligible country shall include the following:

(1) The country is a developing country that has signed and ratified an international treaty or agreement that requires such country to undertake nationally appropriate greenhouse gas mitigation activities.

(2) The President has determined that the country has undertaken nationally appropriate mitigation activities that will achieve substantial reductions in greenhouse gas emissions, relative to business-as-usual levels, in a measurable, reportable, and verifiable manner.

(3) Such other criteria as the President determines will serve the purposes of this subtitle or other United States national security, foreign policy, environmental, or economic objectives.

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(a) IN GENERAL.—The Secretary of State, in consultation with the interagency group, is authorized to provide assistance from the International Clean Technology Fund for projects (which, for purposes of this subtitle, shall include sector-based or cross-sectoral programs, policies, or measures) that are in eligible countries and approved under this subtitle.

(b) FORMS OF ASSISTANCE.—Assistance under this subtitle may be provided in the form of grants, loans, or such other forms of assistance as the Secretary of State may authorize after consultation with the interagency group.

(c) DISTRIBUTION OF ASSISTANCE.—

(1) IN GENERAL.—The Secretary of State, in consultation with the interagency group, shall distribute assistance from the International Clean Technology Fund—

(A) directly;

(B) through agreements with the International Bank for Reconstruction and Development (commonly known as the World Bank), one or more other multilateral development banks, or international development institutions;

(C) through an international fund created pursuant to the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992, or an agreement negotiated under such Convention; or

(D) through some combination of the mechanisms identified in subparagraphs (A) through (C).

(2) DISTRIBUTION THROUGH INTERNATIONAL INSTITUTION OR FUND.—If assistance is distributed through an international institution or fund, as authorized in paragraph (1), the Secretary of State and the interagency group shall seek to ensure the establishment and implementation of adequate mechanisms to apply and enforce the project selection criteria and other requirements of this subtitle.

(3) LIMITATION.—Not more than 20 percent of amounts made available to carry out this subtitle shall be spent in any single country in any year.

(d) PROJECT CATEGORIES.—Assistance under this subtitle shall be limited to projects that achieve substantial reductions in greenhouse gas

emissions through the deployment of low- or zero-carbon technologies, including projects that—

(1) deploy technologies to capture and sequester carbon dioxide emissions from electric generating units or large industrial sources;

(2) deploy renewable electricity generation from wind, solar, biomass, geothermal, marine, or hydrokinetic sources;

(3) achieve substantial increases in the efficiency of electricity consumption, distribution, or transmission; or

(4) reduce transportation sector emissions through increased transportation system efficiency or use of transportation fuels that have lifecycle greenhouse gas emissions that are substantially lower than those attributable to fossil fuel-based alternatives.

(e) CRITERIA FOR PROJECT SELECTION.—Not later than 2 years after the date of enactment of this subtitle, the interagency group shall develop and publish a set of criteria to be used in selecting projects within eligible countries for assistance under this subtitle. These criteria shall—

(1) require that—

(A) the project will result in substantial measurable, reportable, and verifiable reductions in greenhouse gas emissions relative to business-as-usual levels;

(B) the project will not have significant adverse effects on human health, safety, or welfare, the environment, or natural resources within or outside the boundaries of the project;

(C) the project owner or operator has demonstrated capacity to implement and maintain any technologies purchased or installed with assistance from the International Clean Technology Fund;

(D) the project will not cause any net loss of United States jobs or displacement of United States production;

(E) the project meets such other requirements as the interagency group determines appropriate to further the purposes of this subtitle; and

(F) the project will be co-financed by the host country government, private sector institutions, or a multinational development bank; and

(2) give preference to projects that—

(A) maximize greenhouse gas reductions achieved per dollar of assistance provided;

(B) promise to achieve large-scale greenhouse gas reductions at a sectoral or cross-sectoral level; or

(C) have the potential to catalyze a shift within the host country towards widespread deployment of low- or zero-carbon energy technologies.

(f) PROJECT APPROVAL.—Except where assistance is distributed through an international institution or fund pursuant to subsection (c), the Secretary of State, in consultation with the interagency group, shall select projects to receive assistance under this subtitle in accordance with the selection criteria developed under subsection (e).

(g) MONITORING, EVALUATION, AND ENFORCEMENT.—The Secretary of State, in consultation with the interagency group, shall establish and implement a system to monitor and evaluate the performance of projects receiving assistance under this subtitle. The Secretary of State shall have the authority to suspend or terminate assistance in whole or in part for a project if it is determined that the project is not operating in compliance with the approved proposal.

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Not later than March 1, 2012, and annually thereafter, the President shall submit to the appropriate Congressional committees a report on the assistance provided under this subtitle during the prior fiscal year. Such report shall include—

(1) a description of the amount of obligations and expenditures for assistance provided to each eligible country during the prior fiscal year;

(2) a description of each project that received assistance, including the amount of obligations and expenditures for assistance provided to such project, during the prior fiscal year; and

(3) an estimate of the greenhouse gas emission reductions achieved by assistance provided under this subtitle during the prior fiscal year.

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As used in this subpart—

(1) COUNCIL.—The term "Council" means the National Climate Change Adaptation Council established under section 462.

(2) NATIONAL ASSESSMENT.—The term "National Assessment" refers to a National Climate Change Vulnerability Assessment prepared pursuant to section 464.

(3) NATIONAL CLIMATE CHANGE ADAPTATION FUND.—The term "National Climate Change Adaptation Fund" means the National Climate Change Adaptation Fund established under section 467 of this Act.

(4) NOAA.—The term "NOAA" means the National Oceanic and Atmospheric Administration.

(5) PROGRAM.—The term "Program" means the National Climate Change Adaptation Program established under section 463.

(6) TRIBAL GOVERNMENT.—The term "tribal government" means the official government of a federally recognized Indian tribe.

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(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the President shall establish a National Climate Change Adaptation Council, consisting of representatives, appointed by the head of the respective Federal agency, of—

(1) NOAA;

(2) the Environmental Protection Agency;

(3) the Department of Agriculture;

(4) the Department of Commerce;

(5) the Department of Defense;

(6) the Department of Energy;

(7) the Department of Health and Human Services;

(8) the Department of Homeland Security;

(9) the Department of Housing and Urban Development;

(10) the Department of the Interior;

(11) the Department of Transportation;

(12) the Army Corps of Engineers;

(13) the Centers for Disease Control;

(14) the Federal Emergency Management Agency;

(15) the National Aeronautics and Space Administration;

(16) the United States Geological Survey; and

(17) such other Federal agencies or departments as the President considers appropriate.

(b) CHAIRPERSON.—The representative described in subsection (a)(1) shall be the chairperson of the Council.

(c) FUNCTIONS.—The Council shall serve as a forum for interagency consultation on, and coordination of, Federal policies relating to assessment of, and adaptation to, the impacts of climate change on the United States and its territories.

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The Secretary of Commerce, acting through the Administrator of NOAA, shall establish within NOAA a National Climate Change Adaptation Program for the purpose of increasing the overall effectiveness of Federal climate change adaptation efforts. Under the Program, the Administrator of NOAA shall, in consultation as appropriate with the Council—

(1) develop and publish periodic National Assessments under section 464;

(2) provide to Federal agencies, local, State, and tribal governments, and nongovernmental stakeholders policy-relevant scientific information, research products, decision

tools, and technical support related to climate change impacts and adaptation to such impacts, as provided in section 465; and

(3) advise Federal agencies on issues related to climate change impacts and adaptation to such impacts, including through the provision of technical support to Federal agencies in the development of agency climate change adaptation plans as required under section 466.

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(a) IN GENERAL.—Not later than January 1, 2012, and every 4 years thereafter, the Administrator of NOAA shall publish and deliver to the President a National Climate Change Vulnerability Assessment evaluating regional and national vulnerability to impacts of climate change, strategies to adapt to such impacts, and priorities for further research related to climate change impacts and adaptive capacity.

(b) CONTENTS.—

(1) REGIONAL ASSESSMENTS.—Each National Assessment shall include regional assessments for a sufficient number of geographic regions within the United States and its territories to effectively address specific climate change impacts at the regional and State or territorial levels. Each regional assessment shall—

(A) assess, at an appropriate geographic scale, the nature and probability of predicted short-term, medium-term, and long-term impacts of climate change on human health and a broad range of natural systems, resources, infrastructure, and social and economic sectors;

(B) provide a regionally prioritized list of vulnerable systems and areas and an estimate of the range of anticipated costs of climate change impacts within the region;

(C) describe current efforts within the region to adapt to climate change impacts, in areas such as public health, emergency response, infrastructure and development, water resource management, agriculture, forest management, and coastal management;

(D) identify gaps in current adaptation efforts within the region, strategies to address such gaps, and estimates of the costs of implementing such strategies;

(E) describe current research, observation, and monitoring activities focused on understanding regional climate change impacts and adaptation to such impacts, as well as research and data needs and priorities in these areas;

(F) assess the adequacy of existing mechanisms for communication and coordination within the region between Federal agencies and regional, State, local, and tribal stakeholders and recommend measures to enhance such communication and coordination; and

(G) include any other information relevant to understanding regional climate change impacts and adaptation.

(2) NATIONAL SYNTHESIS.—Each National Assessment shall include a synthesis of the regional assessments, including—

(A) a description of relevant research on national-scale, international-scale, or global-scale climate change impacts, vulnerabilities, and adaptive strategies not addressed in the regional assessments;

(B) based on the regional assessments, a nationally prioritized list of vulnerable systems and regions in the United States and a national estimate of the range of costs of short-term, medium-term, and long-term costs of predicted climate change impacts;

(C) a nationally prioritized list of strategies and actions to address climate change impacts, including estimates of the costs of implementing such strategies and actions and the appropriate roles of relevant Federal Government agencies;

(D) a description of priorities for developing Federal research, observation, and monitoring, and policy tools to meet the needs of State and local decisionmakers identified in the regional assessments;

(E) an assessment of the adequacy of existing mechanisms for communication and coordination between Federal agencies and regional, State, local, and tribal stakeholders and recommendations for measures to enhance such communication and coordination;

(F) a description of the progress made towards achieving the objectives identified in the prior National Assessment, except that such requirement shall not apply to the first National Assessment; and

(G) any other relevant results from the regional assessments that have implications for Federal climate change research, mitigation, or adaptation efforts.

(c) METHODOLOGICAL AND PROCEDURAL REQUIREMENTS.—

(1) CONSULTATION WITH COUNCIL.—In developing the National Assessments, the Administrator of NOAA shall consult with the Council and shall seek input and assistance from the Federal agencies represented on the Council within their respective areas of expertise.

(2) CONSULTATION WITH LOCAL, STATE, AND REGIONAL STAKEHOLDERS.—In developing the National Assessments, the Administrator of NOAA and participating Federal agencies shall consult with State, local, and tribal governments and nongovernmental stakeholders at the local, State, and regional levels, to facilitate coordination of efforts and to maximize the utility to local, State, regional, and tribal

decision makers of the information provided by the National Assessment.

(3) BEST AVAILABLE SCIENCE.—The National Assessments shall be based on the best scientific and commercial data available.

(4) TREATMENT OF UNCERTAINTY.—To ensure that scientific uncertainties are addressed through a consistent methodology, all components of the National Assessments shall follow either—

(A) the guidance on treatment of uncertainty set forth in the Intergovernmental Panel on Climate Change's Guidance Notes for Lead Authors of the IPCC Fourth Assessment Report on Addressing Uncertainty; or

(B) such similar uniform guidelines on the treatment of uncertainty as the Administrator of NOAA may establish.

(5) UTILIZATION OF PRIOR RESEARCH AND ASSESSMENTS.—In developing the National Assessments, the Administrator of NOAA shall, to the extent practicable, take into consideration research and information contained in—

(A) the reports of the Intergovernmental Panel on Climate Change;

(B) reports or research published by the Global Change Research Program and the Climate Change Science Program; and

(C) any existing climate change adaptation strategy, report, or assessment prepared by or for a Federal, State, local, or tribal government entity.

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(a) NATIONAL CLIMATE SERVICE.—The Secretary of Commerce, acting through the Administrator of NOAA, shall establish within NOAA a National Climate Service to serve as a clearinghouse to provide State, local, and tribal government decisionmakers with access to regionally and nationally relevant information, data, forecasts, and services relating to climate change impacts and adaptation to such impacts. The National Climate Service shall—

(1) develop and provide access to policy-relevant climate information products, databases, decision tools, and services for Federal, State, local, and tribal government decisionmakers and policymakers;

(2) provide technical assistance to Federal, State, local, and tribal government efforts to assess vulnerability to climate change impacts and develop appropriate strategies and plans to reduce such vulnerability;

(3) facilitate communication and coordination among Federal, State, local, and tribal stakeholders with regard to climate change information and adaptation strategies; and

(4) undertake education and outreach initiatives related to climate change impacts, vulnerabilities, and the application of climate information in decisionmaking.

(b) REGIONAL AND NATIONAL WORKSHOPS.—To facilitate information exchange, outreach, and coordination of efforts on assessment of and adaptation to climate change impacts, the Administrator of NOAA shall, during each 4-year cycle during which a National Assessment is being prepared (or, in the case of the first National Assessment, the period between the date of enactment of this Act and January 1, 2012), convene—

(1) at least one stakeholder workshop in each region identified by the National Assessment, to which appropriate governmental and nongovernmental stakeholders from the region are invited; and

(2) at a date after all of the regional workshops described in paragraph (1) have been completed, at least one national-level workshop to which appropriate governmental and

nongovernmental stakeholders from all of the regions identified by the National Assessments are invited.

(c) OBSERVATION AND MONITORING.—The Administrator of NOAA is authorized to deploy such observation and monitoring systems, including remote sensing systems, as may be necessary to support the National Climate Change Adaptation Program established under this subpart.

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(a) PUBLICATION AND REVIEW.—

(1) PRESIDENTIAL REVIEW.—Within 1 year after the date of publication of each National Assessment, each Federal agency with representation on the Council shall—

(A) complete an agency climate change adaptation plan detailing the agency's current and projected efforts to address the potential impacts of climate change on matters within the agency's jurisdiction; and

(B) submit such agency climate change adaptation plan to the President for review.

(2) SUBMISSION TO CONGRESS.—Within 18 months after the date of publication of each National Assessment, each Federal agency with representation on the Council shall submit the agency climate change adaptation plan described in paragraph (1), as finalized following Presidential review, to the House Committee on Energy and Commerce, the Senate Committee on Environment and Public Works, and the committees in the House of Representatives and the Senate with principal jurisdiction over the relevant agency.

(b) REQUIREMENTS.—Each agency climate change adaptation plan shall include—

(1) a review of the current impacts of climate change on matters within the agency's jurisdiction;

(2) a review of anticipated future (short-term, medium-term, and long-term) impacts of climate change on matters within the agency's jurisdiction, including an assessment of the probability of such impacts that follows the guidelines on treatment of uncertainty established for the National Assessments;

(3) a description of priorities, within the scope of the agency's jurisdiction, for building the adaptive capacity of the United States and its territories;

(4) a review of the agency's current efforts to address climate change impacts on matters within its jurisdiction, including a description of how current and future impacts are being integrated into agency decisionmaking and a description of budgetary and human resources dedicated to adaptation to climate change;

(5) a description of initiatives that will be undertaken to address climate change impacts on matters within the jurisdiction of the agency, including—

(A) the strategic objectives of such initiatives;

(B) the resources that will be dedicated to such initiatives;

(C) timelines for implementation; and

(D) benchmarks and methods for assessing effectiveness;

(6) a description of current and proposed mechanisms to enhance cooperation on climate change adaptation efforts with other Federal agencies and with State, local, and tribal governments and nongovernmental stakeholders;

(7) an assessment of the agency's success in meeting the objectives outlined in its most recent agency climate change adaptation plan, except that this paragraph shall not apply to the first agency climate change adaptation plan; and

(8) an estimate of the budgetary and human resources needed to address climate change impacts on matters within the jurisdiction of the agency.

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(a) NATIONAL CLIMATE CHANGE ADAPTATION FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a National Climate Change Adaptation Fund.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Climate Change Adaptation Fund such sums as may be necessary.

(b) ESTABLISHMENT OF PROGRAM.—Not later than January 1, 2013, the President shall—

(1) directly, or through such Federal agency or agencies as the President may designate, promulgate regulations establishing an integrated program to use funds in the National Climate Change Adaptation Fund to provide financial assistance to State, local, and tribal governments, individually or jointly, for implementation of projects to reduce vulnerability to climate change impacts; and

(2) submit such regulations to the House Committee on Energy and Commerce, the Senate Committee on Environment and Public Works, and other committees of relevant jurisdiction in the House of Representatives and the Senate.

(c) CONSULTATION.—In promulgating the regulations under subsection (b), the President, or such Federal agency or agencies as the President may designate, shall—

(1) consult with the Administrator of NOAA and the Council; and

(2) take into consideration the findings and recommendations of the most recent National Assessment and any relevant agency climate change adaptation plans developed pursuant to section 466.

(d) REQUIREMENTS.—The regulations promulgated under subsection (a) shall—

(1) identify the Federal agency or agencies to be charged with administering each element of the program, and any relevant information relating to organization, governance, and respective responsibilities under the program;

(2) identify priorities and objectives for building State, local, and tribal governments' capacity to adapt to climate change impacts through financial support for State, local, and tribal projects;

(3) identify mechanisms, including grants or loans, through which funds within the National Climate Change Adaptation Fund will be used to provide financial support for projects implemented by State, local, or tribal governments;

(4) identify categories of projects eligible for funding under the program, consistent with the regional and national adaptation priorities identified in the National Assessment;

(5) describe procedures for submission, evaluation, and approval of project proposals;

(6) establish selection criteria for evaluating climate change adaptation project proposals submitted, individually or jointly, by State, local, and tribal governments, including consideration of environmental impacts and cost-effectiveness in reducing vulnerability to climate change impacts;

(7) establish criteria for allocating funding among different regions, States, localities, and Indian tribes, and among different project categories;

(8) establish criteria and mechanisms for reviewing project performance and for enforcing any restrictions imposed as a condition of supporting an approved project; and

(9) provide such other information regarding implementation of the proposed program as the President or the promulgating agency or agencies consider appropriate.

(e) PROGRAM IMPLEMENTATION.—If, after the 1-year period beginning on the date of submission of the regulations under subsection (b), Congress has not enacted a statute codifying the program established by the regulations or an alternative to such program, the agency or agencies identified in the regulations pursuant to subsection (d)(1) shall implement the regulations.

(f) PERIODIC REVISIONS.—

(1) SUBMISSION OF REVISED REGULATIONS.—If a program has been implemented pursuant to subsection (e), the President shall, not later than January 1 of the calendar year following the publication of each subsequent National Assessment, promulgate and submit to Congress revised regulations that—

(A) meet the requirements of subsection (d); and

(B) reflect any relevant information or recommendations included in the most recent National Assessment and relevant agency climate change adaptation plans.

(2) IMPLEMENTATION OF REVISED REGULATIONS.—If, after the 1-year period beginning on the date of submission of any revised regulations under paragraph (1), Congress has not enacted a statute codifying the program established by revised regulations or an alternative to such program, the agency or agencies identified in the revised regulations under subsection (d)(1) shall implement the revised regulations.

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It is the policy of the Federal Government, in cooperation with State, tribal, and local governments, other concerned public and private organizations and citizens to use all practicable means and measures—

(1) to assist the efforts of public health professionals, first responders, States, tribes, municipalities, and local communities to incorporate measures to adapt health systems to address impacts of climate change;

(2) to encourage further research, interdisciplinary partnership, and collaboration between stakeholders to understand and monitor the health impacts of climate change, for preparedness activities, and for improvement of health care infrastructure; and

(3) to encourage each and every American to learn about the impact of climate change on health.

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(a) REQUIREMENT.—The Secretary of Health and Human Services shall, within two years after the date of the enactment of this Act, on the basis of the best available science, promulgate a national strategy for mitigating the impacts of climate change on public health in the United States.

(b) CONSULTATION AND COMMENT.—In developing the national strategy, the Secretary shall—

(1) consult with the Director of the Centers for Disease Control and Prevention, Administrator of the Environmental

Protection Agency, Director of the National Institutes of Health, Administrator of the National Oceanic and Atmospheric Administration, Administrator of the National Aeronautical Space Association, Administrator of the Federal Emergency Management Association, Secretary of Agriculture, Indian tribes, local governments, public health organizations, scientists, and other interested stakeholders; and

(2) provide opportunity for public comment.

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There are authorized to be appropriated such sums as are necessary to develop and implement the national policy set forth in section 471 and the National Strategy set forth in section 472.

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The purposes of this subpart are to—

(1) establish an integrated Federal program to assist natural resources to become more resilient and adapt to and withstand the impacts of climate change and ocean acidification; and

(2) provide financial support and incentives for programs, strategies, and activities that assist natural resources to become more resilient and adapt to the impacts of climate change and ocean acidification.

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It is the policy of the Federal Government, in cooperation with State and local governments, tribal organizations, and other interested stakeholders to use all practicable means and measures to assist natural resources to become more resilient and adapt to and withstand the impacts of climate change and ocean acidification.

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In this subpart:

(1) COASTAL STATE.—The term "coastal State" has the meaning given the term in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453).

(2) ECOLOGICAL PROCESSES.—The term "ecological processes" means biological, chemical, or physical interaction between the biotic and abiotic components of an ecosystem and includes—

(A) nutrient cycling;

(B) pollination;

(C) predator-prey relationships;

(D) soil formation;

(E) gene flow;

(F) disease epizootiology;

(G) larval dispersal and settlement;

(H) hydrological cycling;

(I) decomposition; and

(J) disturbance regimes such as fire and flooding.

(3) NATURAL RESOURCES.—The term "natural resources" means the terrestrial, freshwater, estuarine, and marine fish, wildlife, plants, land, water, habitats, and ecosystems of the United States.

(4) TRIBAL ORGANIZATION.—The term "tribal organization" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

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The Chair of the Council on Environmental Quality shall—

(1) advise the President on implementation and development of—

(A) a Natural Resources Climate Change Adaptation Strategy required under section 486; and

(B) Federal natural resource agency adaptation plans required under section 488;

(2) serve as the Chair of the Natural Resources Climate Change Adaptation Panel established under section 485; and

(3) coordinate Federal agency strategies, plans, programs, and activities related to assisting natural resources to become more resilient and adapt to and withstand the impacts of climate change and ocean acidification.

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(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the President shall establish a Natural Resources Climate Change Adaptation Panel, consisting of—

(1) the head of the respective Federal agency or department of—

(A) the Department of Commerce, acting through the Administrator of NOAA;

(B) the Department of the Interior;

(C) the Environmental Protection Agency;

(D) the Department of Agriculture; and

(E) the Army Corps of Engineers; and

(2) the Chair of the Council on Environmental Quality; and

(3) the heads of such other Federal agencies or departments with jurisdiction over natural resources of the United States as the President considers appropriate.

(b) FUNCTIONS.—The Panel shall serve as a forum for interagency consultation on and the coordination of the development and implementation of a national Natural Resources Climate Change Adaptation Strategy required under section 486.

(c) CHAIR.—The Chair of the Council on Environmental Quality shall serve as the Chair of the Panel.

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(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the President, through the Natural Resources Climate Change Adaptation Panel established under section 485, shall develop a Natural Resources Climate Change Adaptation Strategy for assisting natural resources in becoming more resilient and adapting to the impacts of climate change and ocean acidification.

(b) ADMINISTRATION.—In developing and revising a Natural Resources Climate Change Adaptation Strategy, the Natural Resources Climate Change Adaptation Panel shall—

(1) base the strategy on the best available science, as identified by the Climate Change Adaptation Science and Information Program established under section 487;

(2) develop the strategy in cooperation with States, United States territories, and Indian tribes;

(3) coordinate with other Federal agencies as appropriate;

(4) consult with local governments, conservation organizations, scientists, and other interested stakeholders;

(5) provide public notice and opportunity for comment; and

(6) review and revise the Strategy every 5 years to incorporate new information regarding the impacts of climate change and ocean acidification on natural resources and advances in the development of strategies for becoming more resilient and adapting to those impacts.

(c) CONTENTS.—The National Resources Adaptation Strategy shall include—

(1) an assessment, at an appropriate geographic scale, of the nature and probability of predicted short-term, medium-term, and long-term impacts of climate change and ocean acidification on natural resources, including cumulative and synergistic effects;

(2) a description of current research, observation, and monitoring activities related to the impacts of climate change and ocean acidification on natural resources, as well as identification of research and data needs and priorities;

(3) identification of natural resources that are likely to be adversely affected by climate change and ocean acidification and have a need for conservation;

(4) specific protocols for integrating climate change and ocean acidification adaptation strategies and activities into the conservation and management of natural resources by Federal agencies to ensure consistency across agency jurisdictions and resources;

(5) specific actions that Federal agencies should take to assist natural resources in adapting to and withstanding the impacts of climate change and ocean acidification, including a timeline to implement those actions;

(6) specific mechanisms for ensuring communication and coordination among Federal agencies, and between Federal agencies and State natural resource agencies, United States territories, and Indian tribes; and

(7) a process for guiding the development of detailed agency and department specific adaptation plans required under section 488 to address the impacts of climate change and ocean acidification on the natural resources in the jurisdiction of each agency.

(d) IMPLEMENTATION.—Consistent with their authorities under other laws, each Federal agency with representation on the National Resources Climate Change Adaptation Panel shall integrate the elements of the strategy into agency plans, programs, and activities related to the conservation and management of natural resources.

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(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Commerce, acting through the Administrator of the NOAA, and the Secretary of the Interior, acting through the Director of the United States Geological Survey, shall establish a Natural Resources Climate Change Adaptation Science and Information Program.

The program shall be implemented through the National Global Warming and Wildlife Science Center within the United States Geological Survey and through counterpart programs established by the Secretary of Commerce within the National Oceanic and Atmospheric Administration.

(b) FUNCTIONS.—The National Resources Climate Change Adaptation Science and Information Program shall—

(1) provide technical assistance to Federal agencies, State and local governments, and tribal organizations in their efforts to assess the impacts of climate change and ocean acidification on natural resources;

(2) conduct and sponsor research and provide Federal agencies, State and local governments, and tribal organizations with research products, decision and monitoring tools and information, to develop strategies for assisting natural resources to become more resilient and adapt to and withstand the impacts of climate change and ocean acidification; and

(3) assist Federal agencies in the development of detailed agency and department specific adaptation plans required under section 488.

(c) SURVEY.—Not later than 180 days after the date of enactment of this Act and every 5 years thereafter, the Secretary of Commerce and the Secretary of the Interior shall undertake a climate change and ocean acidification impact survey that—

(1) identifies natural resources considered likely to be adversely affected by climate change and ocean acidification;

(2) includes baseline monitoring and ongoing trend analysis;

(3) identifies and prioritizes needed monitoring and research that is of greatest relevance to the ongoing needs of natural resource managers to address the impacts of climate change and ocean acidification; and

(4) identifies decision tools necessary to develop strategies for assisting natural resources to become more resilient and adapt to and withstand the impacts of climate change and ocean acidification.

(d) SCIENCE ADVISORY BOARD.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce and the Secretary of the Interior shall establish and appoint the members of a Science Advisory Board, to be comprised of not fewer than 10 and not more than 20 members—

(A) who have expertise in fish, wildlife, plant, aquatic, and coastal and marine biology, ecology, climate change, ocean acidification, and other relevant scientific disciplines;

(B) who represent a balanced membership among Federal, State, and local representatives, universities, and conservation organizations; and

(C) at least ½ of whom are recommended by the President of the National Academy of Sciences.

(2) DUTIES.—The Science Advisory Board shall—

(A) advise the Natural Resources Climate Change Adaptation Science and Information Program established under subsection (a) on the state-of-the-science regarding the impacts of climate change and ocean acidification on natural resources and scientific strategies and mechanisms for adaptation; and

(B) identify and recommend priorities for ongoing research needs on such issues.

(3) COLLABORATION.—The Science Advisory Board shall collaborate with other climate change and ecosystem research entities in other Federal agencies and departments.

(4) AVAILABILITY TO THE PUBLIC.—The advice and recommendations of the Science Advisory Board shall be made available to the public.

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(a) DEVELOPMENT.—Not later than 1 year after the date of the development of a Natural Resources Climate Change Adaptation Strategy under section 486, each Federal agency with representation on the Natural Resources Climate Change Adaptation Panel established under section 485 shall—

(1) complete an agency adaptation plan, consistent with the Natural Resources Climate Change Adaptation Strategy under section 486 and the Natural Resources Climate Change Adaptation Policy under section 482, detailing the agency's current and projected efforts to address the potential impacts of climate change and ocean acidification on natural resources within the agency's jurisdiction and necessary additional actions, including a timeline for implementation of those actions;

(2) provide opportunities for public review and comment on the agency adaptation plan; and

(3) submit such plan to the President for approval.

(b) SUBMISSION TO CONGRESS.—Not later than 30 days after the date of approval by the President, each Federal agency with representation on the Natural Resources Climate Change Adaptation Panel under section 485 shall submit to the Committee on Energy and Commerce of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the committees of the House of Representatives and the Senate with principal jurisdiction over the relevant agency an agency adaptation plan described in subsection (a) along with a schedule for the implementation of such plan.

(c) REQUIREMENTS.—Each agency adaptation plan shall include prioritized goals and measures and a schedule for implementation—

(1) to assess the current and future impacts of climate change and ocean acidification on natural resources within the agency's jurisdiction, including cumulative and synergistic effects, and to identify and monitor those natural resources that are likely to be adversely affected and that have need for conservation;

(2) to assess the agency's efforts to address the current and future impacts of climate change and ocean acidification on natural resources within the scope of the agency's jurisdiction and to develop and implement strategies to assist such resources in becoming more resilient and adapting to and withstanding those impacts, including—

(A) the protection, maintenance, and restoration of habitats and ecosystems;

(B) the establishment of habitat linkages and corridors;

(C) the restoration and conservation of ecological processes;

(D) the protection of a broad diversity of native species across their range; and

(E) the protection of wildlife health, recognizing that climate can alter the distribution and ecology of parasites, pathogens, and vectors.

(3) to integrate such adaptation strategies into agency plans, programs, activities, and actions related to the conservation and management of natural resources and to establish new plans, programs, activities, and actions as necessary;

(4) including a description of current and proposed mechanisms to enhance cooperation and coordination on natural resources adaptation efforts with other Federal agencies, State and local governments, and tribal organizations and nongovernmental stakeholders;

(5) to develop specific written guidance to resource managers to—

(A) explain how managers are expected to address the effects of climate change and ocean acidification;

(B) identify how managers are to obtain any site-specific information that may be necessary; and

(C) to reflect best practices shared among relevant agencies, while also recognizing the unique missions, objectives, and responsibilities of each agency; and

(6) to identify and assess data and information gaps necessary to develop natural resource adaptation plans and strategies.

(d) IMPLEMENTATION.—Upon approval by the President, each Federal agency shall implement their agency plan through existing and new policies, programs, activities, and actions to the extent not inconsistent with existing authority. To the maximum extent practicable and consistent with applicable law, implementation shall be conducted in a way that protects, maintains, and restores the resilience of natural resources under the jurisdiction of other agencies and their ability to adapt and withstand the impacts of climate change and ocean acidification.

(e) REVISION AND REVIEW.—Not less than every 5 years, each Federal agency adaptation plan shall be reviewed and revised to incorporate the best available science and other information regarding the impacts of climate change and ocean acidification on natural resources.

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(a) REQUIREMENT.—In order to be eligible to receive funds under section 490, not later than 1 year after the development of a Natural Resources Climate Change Adaptation Strategy required under section 486 each State shall prepare a State natural resources adaptation plan detailing the State's current and projected efforts to address the potential impacts of

climate change and ocean acidification on natural resources and coastal areas within the State's jurisdiction.

(b) REVIEW OR APPROVAL.—Each State plan shall be reviewed and approved by the Secretary of the Interior and, as applicable, the Secretary of Commerce, to be consistent with a national Natural Resources Climate Change Adaptation Strategy required under section 486 and the Federal natural resource agency adaptation plans under section 488.

(1) Within 10 days after transmittal of a plan, revision to a plan, or resubmittal of a plan by a State, the Secretary of the Interior and the Secretary of Commerce shall commence a review of the strategy, revised plan, or revision, respectively.

(2) Within 180 days after transmittal of a plan, or a revision to a plan, the Secretary of the Interior and the Secretary of Commerce shall approve or disapprove the plan by written notice.

(3) Within 90 days after transmittal of a resubmitted plan, as a result of disapproval by written notice, the Secretary of the Interior and the Secretary of Commerce shall approve or disapprove the plan by written notice.

(c) CONTENTS.—A State natural resources adaptation plan shall—

(1) include a strategy for addressing the impacts of climate change and ocean acidification on fish, wildlife, plants, habitats, ecosystems, wildlife health, and ecological processes that—

(A) describes the impacts of climate change and ocean acidification on the diversity and health of the fish, wildlife and plant populations, habitats, ecosystems, and associated ecological processes;

(B) establishes programs for monitoring the impacts of climate change on fish, wildlife, and plant populations, habitats, ecosystems, and associated ecological processes;

(C) describes and prioritizes proposed conservation actions to assist fish, wildlife, plant populations, habitats, ecosystems, and associated ecological processes in becoming more resilient and adapting to those impacts;

(D) includes strategies, specific conservation actions, and a time frame for implementing conservation actions for fish, wildlife, and plant populations, habitats, ecosystems, and associated ecological processes;

(E) establishes methods for assessing the effectiveness of conservation actions taken to assist fish, wildlife, and plant populations, habitats, ecosystems, and associated ecological processes in becoming more resilient and adapting to the impacts of climate changes and ocean acidification and for updating those actions to respond appropriately to new information or changing conditions;

(F) is incorporated into a revision of the comprehensive wildlife conservation strategy of a State—

(i) that has been submitted to the United States Fish and Wildlife Service; and

(ii) that has been approved by the Service or on which a decision on approval is pending; and

(G) is developed—

(i) with the participation of the State fish and wildlife agency, the State coastal agency, the State agency responsible for administration of Land and Water Conservation Fund grants, the State Forest Legacy program coordinator, and other State agencies considered appropriate by the Governor of such State; and

(ii) in coordination with the Secretary of the Interior, and where applicable, the Secretary of Commerce; and

(2) include, in the case of a coastal State, a strategy for addressing the impacts of climate change and ocean acidification on the coastal zone that—

(A) identifies natural resources that are likely to be impacted by climate change and ocean acidification and describes those impacts;

(B) identifies and prioritizes continuing research and data collection needed to address those impacts including—

(i) acquisition of high resolution coastal elevation and nearshore bathymetry data;

(ii) historic shoreline position maps, erosion rates, and inventories of shoreline features and structures;

(iii) measures and models of relative rates of sea level rise or lake level changes, including effects on flooding, storm surge, inundation, and coastal geological processes;

(iv) habitat loss, including projected losses of coastal wetlands and potentials for inland migration of natural shoreline habitats;

(v) coastal species and ecosystem migrations, and changes in species population dynamics;

(vi) changes in storm frequency, intensity, or rainfall patterns;

(vii) saltwater intrusion into coastal rivers and aquifers;

(viii) changes in chemical or physical characteristics of marine and estuarine systems;

(ix) increased harmful algal blooms; and

(x) spread of invasive species;

(C) identifies and prioritizes adaptation strategies to assist natural resources to become more resilient and to adapt to and withstand and minimize the impacts of climate change and ocean acidification, including—

(i) protection, maintenance, and restoration of ecologically important coastal lands, coastal and ocean ecosystems, and species biodiversity and the establishment of habitat buffer zones, migration corridors, and climate refugia; and

(ii) improved planning, siting policies, and hazard mitigation strategies;

(D) establishes programs for the long-term monitoring of the impacts of climate change and ocean acidification on the coastal zone and to assess and adjust, when necessary, such adaptive management strategies;

(E) establishes performance measures for assessing the effectiveness of adaptation strategies intended to improve resilience and the ability of natural resources in the coastal zone to adapt to and withstand the impacts of climate change and ocean acidification and of adaptation strategies intended to minimize those impacts on the coastal zone and to update those strategies to respond to new information or changing conditions; and

(F) is developed with the participation of the State coastal agency and other appropriate State agencies and in coordination with the Secretary of Commerce and other appropriate Federal agencies.

(d) PUBLIC INPUT.—States shall provide for solicitation and consideration of public and independent scientific input in the development of their plans.

(e) COORDINATION WITH OTHER PLANS.—The State plan shall take into consideration research and information contained in, and coordinate with and integrate the goals and measures identified in, as appropriate, other natural resources conservation strategies, including—

(1) the national fish habitat action plan;

(2) plans under the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.);

(3) the Federal, State, and local partnership known as "Partners in Flight";

(4) federally approved coastal zone management plans under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

(5) federally approved regional fishery management plants and habitat conservation activities under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(6) the national coral reef action plan;

(7) recovery plans for threatened species and endangered species under section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f));

(8) habitat conservation plans under section 10 of that Act (16 U.S.C. 1539);

(9) other Federal and State plans for imperiled species;

(10) State hazard mitigation plans; and

(11) other State-based strategies that comprehensively implement adaptation activities to remediate the effects of

climate change and ocean acidification on fish, wildlife, plants, and other natural resources.

(f) UPDATING.—Each State plan shall be updated not less than every 5 years.

(g) FUNDING.—

(1) IN GENERAL.—Funds made available to States under section 490 shall be used only for activities that are consistent with a State natural resources adaptation plan that has been approved by the Secretaries of Interior and Commerce.

(2) INITIAL.—Until the earlier of the date that is 3 years after the date of the enactment of this Act or the date on which a State receives approval for the State strategy, a State shall be eligible to receive funding under section 490 for adaptation activities that are—

(A) consistent with the comprehensive wildlife strategy of the State and, where appropriate, other natural resources conservation strategies; and

(B) in accordance with a workplan developed in coordination with—

(i) the Secretary of the Interior; and

(ii) the Secretary of Commerce, for any coastal State subject to the condition that coordination with the Secretary of Commerce shall be required only for those portions of the strategy relating to activities affecting the coastal zone.

(3) PENDING APPROVAL.—During the period for which approval by the applicable Secretary of a State plan is pending, the State may continue receiving funds under section 490 pursuant to the workplan described in paragraph (2)(B).

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(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a Natural Resources Climate Change Adaptation Fund.

(b) AUTHORIZATION AND AVAILABILITY OF FUNDS.—

(1) AUTHORIZATION.—There are authorized to be appropriated to the National Resources Climate Change Adaptation Fund such sums as may be necessary to carry out this subpart.

(2) AVAILABILITY.—Any amounts deposited into the Natural Resources Climate Change Adaptation Fund shall be available without further appropriation or fiscal year limitation.

(c) DISTRIBUTIONS.—

(1) STATES.—Of the amounts made available each fiscal year to carry out this subpart, 40 percent shall be available to States to carry out adaptation activities in accordance with a State natural resources adaptation plans approved under section 489. Specifically—

(A) 32.5 percent shall be available to State wildlife agencies through the Wildlife Conservation and Restoration Account established under section 3(a)(2) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b(a)(2)); and

(B) 7.5 percent shall be available to State coastal agencies pursuant to the formula established by the Secretary of Commerce under section 306(c) of the Coastal Management Act of 1972 (16 U.S.C. 1455(c)).

(2) DEPARTMENT OF THE INTERIOR.—Of the amounts made available each fiscal year to carry out this subpart—

(A) 17 percent shall be available to the Secretary of the Interior for use in funding adaptation activities carried out—

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

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

(iii) within Federal water managed by the Bureau of Reclamation;

(B) 5 percent shall be available to the Secretary of the Interior for adaptation activities carried out under cooperative grant programs, including—

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

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

(iii) the multinational species conservation fund established under the heading "MULTINATIONAL SPECIES CONSERVATION FUND" of title I of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 4946);

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

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

(vi) the National Fish Habitat Action Plan;

(vii) the Partners for Fish and Wildlife Program;

(viii) the Landowner Incentive Program;

(ix) the Wildlife Without Borders Program of the United States Fish and Wildlife Service; and

(x) the Park Flight Migratory Bird Program of the National Park Service; and

(C) 1 percent shall be available to the Secretary of the Interior to provide financial assistance to Indian tribes to carry out adaptation activities through the Tribal Wildlife Grants Program of the United States Fish and Wildlife Service.

(3) LAND AND WATER CONSERVATION FUND.—

(A) DEPOSITS.—

(i) IN GENERAL.—Of the amounts made available for each fiscal year to carry out this subpart 12 percent shall be deposited into the Land and Water Conservation Fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–5).

(ii) USE OF DEPOSITS.—Deposits into the Land and Water Conservation Fund under this paragraph shall—

(I) be supplemental to authorizations provided under section 3 of the Land and Water Conservation Fund Act of 1965 (16

U.S.C. 460l–6) which shall remain available for nonadaptation needs; and

(II) be available for expenditure to carry out this subpart without further appropriation or fiscal year limitation.

(B) ALLOCATIONS.—Of the amounts deposited under this paragraph into the Land and Water Conservation Fund—

(i) 1/6 shall be available to the Secretary of the Interior and made available on a competitive basis to carry out adaptation activities through the acquisition of land and interests in land under section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8)—

(I) to States in accordance with their natural resources adaptation plans, and to Indian tribes;

(II) notwithstanding section 5 of that Act (16 U.S.C. 460l–7); and

(III) in addition to any funds provided pursuant to annual appropriations Acts, the Energy Policy Act of 2005 (42 U.S.C. 15801 et seq.), or any other authorization for nonadaptation needs;

(ii) 1/3 shall be available to the Secretary of the Interior to carry out adaptation activities through the acquisition of lands and interests in land under section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9);

(iii) 1/6 shall be available to the Secretary of Agriculture and made available to the States to carry out adaptation activities through the

acquisition of land and interests in land under section 7 of the Forest Legacy Program under the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103c); and

(iv) 1/3 shall be available to the Secretary of Agriculture to carry out adaptation activities through the acquisition of land and interests in land under section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9).

(C) EXPENDITURE OF FUNDS.—In allocating funds under subparagraph (B), the Secretary of the Interior and the Secretary of Agriculture shall take into consideration factors including—

(i) the availability of non-Federal contributions from State, local, or private sources;

(ii) opportunities to protect wildlife corridors or otherwise to link or consolidate fragmented habitats;

(iii) opportunities to reduce the risk of catastrophic wildfires, extreme flooding, or other climate-related events that are harmful to fish and wildlife and people; and

(iv) the potential for conservation of species or habitat types at serious risk due to climate change, ocean acidification, and other stressors.

(4) FOREST SERVICE.—Of the amounts made available each fiscal year to carry out this subpart, 5 percent shall be available to the Secretary of Agriculture for use in funding adaptation activities carried out on national forests and national grasslands under the jurisdiction of the Forest Service, or pursuant to the cooperative Wings Across the Americas Program.

(5) ENVIRONMENTAL PROTECTION AGENCY.—Of the amounts made available each fiscal year to carry out this subpart, 5 percent shall be available to the Administrator of the Environmental Protection Agency for use in adaptation activities restoring and protecting—

(A) large-scale freshwater aquatic ecosystems, such as the Everglades, the Great Lakes, Flathead Lake, the Missouri River, the Mississippi River, the Colorado River, the Sacramento-San Joaquin Rivers, the Ohio River, the Columbia-Snake River System, the Apalachicola, Chattahoochee, and Flint River System, the Connecticut River, and the Yellowstone River;

(B) large-scale estuarine ecosystems, such as Chesapeake Bay, Long Island Sound, Puget Sound, the Mississippi River Delta, the San Francisco Bay Delta, Narragansett Bay, and Albemarle-Pamlico Sound; and

(C) freshwater and estuarine ecosystems, watersheds, and basins identified as priorities by the Administrator, working in cooperation with other Federal agencies, States, local governments, scientists, and other conservation partners.

(6) CORPS OF ENGINEERS.—Of the amounts made available each fiscal year to carry out this subpart, 7.5 percent shall be available to the Secretary of the Army for use by the Corps of Engineers to carry out adaptation activities restoring—

(A) large-scale freshwater aquatic ecosystems, such as the ecosystems described in paragraph (5)(A);

(B) large-scale estuarine ecosystems, such as the ecosystems described in paragraph (5)(B);

(C) freshwater and estuarine ecosystems, watersheds, and basins identified as priorities by the Corps of Engineers, working in cooperation with other

Federal agencies, States, local governments, scientists, and other conservation partners; and

(D) habitats and ecosystems through the implementation of estuary habitat restoration projects authorized by the Estuary Restoration Act of 2000 (33 U.S.C. 2901 et seq.), project modifications for improvement of the environment, aquatic restoration and protection projects authorized by section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330), and other appropriate programs and activities.

(7) DEPARTMENT OF COMMERCE.—Of the amounts made available each fiscal year to carry out this subpart, 7.5 percent shall be available to the Secretary of Commerce for use in funding adaptation activities to protect, maintain, and restore coastal, estuarine, and marine resources, habitats, and ecosystems, including such activities carried out under—

(A) the coastal and estuarine land conservation program;

(B) the community-based restoration program;

(C) the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), that are specifically designed to strengthen the ability of coastal, estuarine, and marine resources, habitats, and ecosystems to adapt to and withstand the impacts of climate change and ocean acidification;

(D) the Open Rivers Initiative;

(E) the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(F) the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.);

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

(H) the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.); and

(I) the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.).

(d) COST SHARING.—Notwithstanding any other provision of law, a State or Indian tribe that receives a grant under paragraphs (1) or (2)(C) of subsection (d) shall use funds from non-Federal sources to pay 10 percent of the costs of each activity carried out using amounts under the grant.

(e) CONSISTENCY WITH FEDERAL PLANS.—Funds made available under paragraph (2) through (7) of subsection (d) shall be used only for adaptation activities that are consistent with the natural resources adaptation plans required to be developed by each Federal agency under section 488.

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(a) FINDINGS.—Congress finds that—

(1) global climate change is a potentially significant threat multiplier for instability around the world and is likely to exacerbate competition and conflict over agricultural, vegetative, marine, and water resources and displace people, thus increasing hunger and poverty and causing increased pressure on developing countries;

(2) the strategic, social, political, economic, cultural, and environmental consequences of global climate change are likely to have disproportionate impacts on developing countries, which have less economic and financial capacity to respond to such impacts;

(3) the countries most vulnerable to climate change, due both to exposure to harmful impacts and to their lower capacity

to adapt, are developing countries with very low industrial emissions that have contributed less to climate change than more affluent countries;

(4) developing countries rely, to a much greater degree, on the natural and environmental systems likely to be affected by climate change for sustenance and livelihoods, as well as economic growth and stability;

(5) the consequences of global climate change, including increases in poverty and destabilization of economies and societies, are likely to pose a long-term threat to the national security, foreign policy, and economic interests of the United States;

(6) it is in the national security, foreign policy, and economic interests of the United States to recognize, plan for, and mitigate the international strategic, social, political, cultural, environmental and economic effects of a changing climate and to assist developing countries to increase their resilience to those effects;

(7) under the United Nations Framework Convention on Climate Change and under the Bali Action Plan, developed country parties, including the United States, committed to provide "new and additional financial resources" to assist developing countries in meeting the costs of adaptation; and

(8) consistent with the United Nations Framework Convention on Climate Change and the Bali Action Plan, funding directed towards these purposes must be predictable, sustainable, and additional to internationally agreed levels of overseas development assistance.

(b) PURPOSES.—The purposes of this part are—

(1) to provide assistance from the United States to the most vulnerable developing countries in order to support the development and implementation of climate change adaptation programs and projects that reduce the vulnerability and increase the resilience of communities to climate change

impacts including impacts upon water availability, agricultural productivity, flood risk, coastal resources, timing of seasons, biodiversity, economic livelihoods, health and diseases, and human migration; and

(2) to provide such assistance in a manner that promotes and protects the national security, foreign policy, environmental, and economic interests of the United States where such interests may be advanced by minimizing, averting, or increasing resilience to climate change impacts.

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In this part:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Energy and Commerce, the Committee on Foreign Affairs, and any other relevant committees on national security, the environment, and foreign policy of the House of Representatives; and

(B) the Committees on Environment and Public Works, Foreign Relations, and any other relevant committees on national security, the environment, and foreign policy of the Senate.

(2) MOST VULNERABLE DEVELOPING COUNTRIES.—The term "most vulnerable developing countries" means, as determined by the Administrator of USAID, developing countries that are most vulnerable to climate change impacts, and may include countries identified by the United Nations as least developed countries, low-lying and other small island developing countries, and other developing countries that are at risk of substantial adverse impacts of climate change and have limited capacity to respond to such impacts, considering the approaches included in any international treaties and agreements.

(3) PROGRAM.—The term "Program" means the International Climate Change Adaptation Program established under section 493.

(4) USAID.—The term "USAID" means the United States Agency for International Development.

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The Secretary of State, working with the Administrator of USAID and the Administrator of the Environmental Protection Agency, shall establish an International Climate Change Adaptation Program within USAID.

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(a) ACTIVITIES AND FOREIGN AID.—

(1) IN GENERAL.—In order to achieve the purposes under section 491, the Program may carry out activities and projects and make grants to any private or public group (including public international organizations), association, or other entity engaged in peaceful activities, to—

(A) provide assistance to the most vulnerable developing countries for the development of national or regional climate change adaptation plans, associated national policies, and in the planning, financing, and execution of adaptation projects;

(B) support investments, capacity-building activities, and other assistance, to reduce vulnerability and promote community-level resilience related to climate change and its impacts in the most vulnerable developing countries, including impacts on water availability, agricultural productivity, flood risk, coastal resources, timing of seasons, biodiversity, economic

livelihoods, human migration, or other social, economic, political, cultural, or environmental matters;

(C) support climate change adaptation research in or for the most vulnerable developing countries;

(D) encourage the protection and rehabilitation of natural systems, the enhancement and diversification of agricultural, fishery, and other livelihoods, and the reduction of disaster risk, in order to reduce vulnerability and provide increased resilience to climate change for local communities and livelihoods in the most vulnerable developing countries;

(E) support the deployment of technologies that would help the most vulnerable developing countries respond to the destabilizing impacts of climate change and encourage the identification and adoption of appropriate renewable and efficient energy technologies that are beneficial in increasing community-level resilience to the impacts of global climate change in those countries; and

(F) encourage the engagement of local communities through full disclosure of information, consultation, and the communities' informed participation relating to the development of plans, programs and projects to increase community-level resilience to climate change impacts.

(2) LIMITATION.—Not more than 10 percent of amounts made available to carry out this part shall be spent in any single country in any year.

(3) PRIORITIZING ASSISTANCE.—In providing assistance under this part, the Administrator of USAID shall give priority to countries that are most vulnerable to the adverse impacts of climate change, determined by the likelihood and severity of such impacts and the country's capacity to adapt to such impacts.

(b) COMMUNITY ENGAGEMENT.—

(1) The Administrator of USAID shall ensure that local communities in areas where any projects or activities are planned under the Program are engaged through full disclosure of information, public participation, and consultation.

(2) For each country receiving assistance under the Program, the Administrator of USAID shall establish a process for consultation with, and disclosure of information to, local, national, and international stakeholders regarding any projects and activities planned under the Program.

(3) The Administrator of USAID shall, to the extent practicable, ensure that projects or activities under the Program are aligned with broader development, poverty alleviation, or natural resource management objectives and initiatives in the recipient country.

(c) REPORTING.—

(1) INITIAL REPORT.—Not later than 180 days after the date of enactment of this part, the Administrator of USAID shall submit to the President and appropriate congressional committees an initial report that—

(A) based on the most recent information available from reliable public sources or knowledge obtained by USAID on a reliable basis, identifies the developing countries that are most vulnerable to climate change impacts and in which assistance may have the greatest and most sustainable benefit to reducing vulnerability to climate change; and

(B) describes the process and methodology for selecting the recipients of assistance or grants under subsection (a)(1).

(2) ANNUAL REPORTS.—Not later than 12 months after the date on which the initial report is submitted pursuant to paragraph (1), and annually thereafter, the Administrator of the USAID shall submit reports to the President and appropriate congressional committees that—

(A) describe the extent to which global climate change, through its potential negative impacts on sensitive populations and natural resources in the most vulnerable developed countries, may threaten, cause, or exacerbate political, economic, environmental, cultural, or social instability or international conflict in those regions;

(B) describe the ramifications of any potentially destabilizing impacts climate change may have on the national security, foreign policy, and economic interests of the United States, including—

(i) the creation of refugees and internally displaced peoples;

(ii) international or internal armed conflicts over water, food, land, or other resources;

(iii) loss of agricultural and other livelihoods, cultural stability, and other causes of increased poverty and economic destabilization;

(iv) decline in availability of resources needed for survival, including water;

(v) increased impact of natural disasters (including droughts, flooding, and other severe weather events);

(vi) increased prevalence or virulence of climate-related diseases; and

(vii) intensified urban migration;

(C) describe how funds made available under section 495 were spent during the previous calendar year to enhance the national security, foreign policy, and economic interests of the United States and assist in avoiding the economically, politically, environmentally,

culturally, and socially destabilizing impacts of climate change in most vulnerable developing countries;

(D) identify and recommend the developing countries that are most vulnerable to climate change impacts and in which assistance may have the greatest and most sustainable benefit to reducing vulnerability to climate change, including in the form of deploying technologies, investments, capacity-building activities, and other types of assistance for adaptation to climate change impacts and approaches to reduce greenhouse gases in ways that may also provide community-level resilience to climate change impacts; and

(E) describe cooperation undertaken with other nations and international organizations to carry out this part.

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(a) DISTRIBUTION OF FUNDS.—The Administrator of USAID shall distribute the funds for the purposes of this part.

(b) OVERSIGHT.—The Administrator of USAID shall oversee the expenditures by the Program.

(c) CONDITIONAL DISTRIBUTION TO INTERNATIONAL ADAPTATION FUNDS.—The Administrator of USAID shall, after consulting with the Secretary of State, the Secretary of the Treasury, and the Administrator of the Environmental Protection Agency, distribute at least 40 percent and up to 60 percent of the funds available to the Program to an international fund that meets the requirements of subsection (d), if any such fund exists, and shall annually certify in a report to Congress that any international fund receiving funds under this section meets the requirements of subsection (d) or that no international fund meeting the requirements of subsection (d) exists. In the event that no fund meeting the requirements of subsection (e) exists, the Administrator shall distribute available funds directly in accordance with the requirements of this part. The Administrator of USAID

shall notify the appropriate congressional committees not less than 15 days prior to an allocation or transfer of funds pursuant to this subsection.

(d) INTERNATIONAL FUND ELIGIBILITY.—An international fund is eligible for funding under the Program provided that it is created pursuant to the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992, or an agreement negotiated under the Convention and that the agreement—

(1) specifies the terms and conditions under which the United States is to provide monies to the fund, and under which the international fund is to disburse monies to recipient countries;

(2) ensures that assistance from the United States to the fund and the principal and income of the fund are disbursed only for purposes that are consistent with those described in paragraph 491(b)(1);

(3) requires a regular meeting of a governing body of the international fund that includes representation from most vulnerable developing countries and provides full public access;

(4) requires that local communities and indigenous peoples in areas where any activities or programs are planned are engaged through full disclosure of information, public participation, and consultation;

(5) spends not more than 10 percent of the amounts available to the fund in any single country in any year; and

(6) requires the international fund to prepare and make public an annual report that—

(A) identifies and recommends the developing countries that are most vulnerable to climate change impacts and in which assistance can have the greatest and most sustainable benefit to reducing vulnerability to climate change;

(B) describes the process and methodology for selecting the recipients of assistance or grants from the fund;

(C) describes specific programs and projects funded by the international fund and the extent to which the assistance is addressing the adaptation needs of the most vulnerable developing countries;

(D) describes the performance goals for assistance authorized under the fund and expresses such goals in an objective and quantifiable form, to the extent practicable;

(E) describes the performance indicators to be used in measuring or assessing the achievement of the performance goals described in subparagraph (D);

(F) provides a basis for recommendations for adjustments to assistance authorized under this part to enhance the impact of such assistance; and

(G) describes the participation of other nations and international organizations in funding and governing the international fund.

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(a) IN GENERAL.—The Administrator of USAID shall establish and implement a system to monitor and evaluate the effectiveness and efficiency of assistance provided under this part in order to maximize the long-term sustainable development impact of such assistance, including the extent to which the assistance is meeting the purposes of this part and addressing the adaptation needs of developing countries.

(b) GOALS.—In carrying out subsection (a), the Administrator of USAID shall—

(1) in consultation with national governments in recipient countries, establish performance goals for assistance authorized under this part and express such goals in an objective and quantifiable form, to the extent practicable;

(2) establish performance indicators to be used in measuring or assessing the achievement of the performance goals described in paragraph (1), including an evaluation of the extent to which the Program provides for full disclosure of information and consultation and informed participation by local communities and an evaluation of the extent to which local communities participated in the projects and programs implemented under this part and the impacts of local community participation on the goals and objectives of the projects and programs;

(3) provide a basis for recommendations for adjustments to assistance authorized under this part to enhance the impact of such assistance; and

(4) include in the annual report to Congress and other relevant agencies required under section 494(c)(2), the monitoring and evaluation of programs subject to this section in its findings