

HR 6316 IH

110th CONGRESS

2d Session

H. R. 6316

To reduce global greenhouse gas emissions through the creation of a domestic carbon market and international trade measures, and to direct the revenue therefrom to public interests.

IN THE HOUSE OF REPRESENTATIVES**June 19, 2008**

Mr. DOGGETT (for himself, Mr. BLUMENAUER, Mr. VAN HOLLEN, Mr. EMANUEL, Mr. LARSON of Connecticut, Ms. DELAURO, Mr. GEORGE MILLER of California, Ms. SLAUGHTER, Mr. BRADY of Pennsylvania, Ms. WASSERMAN SCHULTZ, Mr. LEWIS of Georgia, Mr. MCDERMOTT, Mr. OLVER, Mr. HOLT, Mr. STARK, Ms. BERKLEY, Ms. SCHWARTZ, Mr. CROWLEY, Mr. MCNULTY, Mr. MEEK of Florida, Mr. MORAN of Virginia, Mr. PASCARELL, Mr. THOMPSON of California, Mr. CONYERS, Mrs. JONES of Ohio, Mr. ACKERMAN, Mr. BISHOP of New York, Mr. CAPUANO, Ms. CASTOR, Mr. CHANDLER, Ms. CLARKE, Mr. CLEAVER, Mr. COHEN, Mr. COURTNEY, Mr. DAVIS of Illinois, Mr. ELLISON, Mr. FARR, Mr. FILNER, Mr. GUTIERREZ, Mr. HALL of New York, Mr. HARE, Mr. HINCHEY, Ms. HIRONO, Mr. HONDA, Mr. ISRAEL, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JOHNSON of Georgia, Mr. KENNEDY, Mr. KLEIN of Florida, Mr. KUCINICH, Ms. LEE, Ms. ZOE LOFGREN of California, Mrs. MALONEY of New York, Mr. MCGOVERN, Ms. MOORE of Wisconsin, Mr. NADLER, Mrs. NAPOLITANO, Ms. NORTON, Mr. PAYNE, Ms. LORETTA SANCHEZ of California, Mr. SCHIFF, Mr. SESTAK, Mr. SHERMAN, Mrs. TAUSCHER, Ms. TSONGAS, Ms. WATERS, Ms. WATSON, Mr. WELCH of Vermont, Mr. WEXLER, Ms. WOOLSEY, Mr. WU, Mr. YARMUTH, Mr. THOMPSON of Mississippi, Mr. HASTINGS of Florida, Mr. GRIJALVA, Mr. FATTAH, and Mr. DELAHUNT) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, Foreign Affairs, Science and Technology, Financial Services, Education and Labor, Natural Resources, Agriculture, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To reduce global greenhouse gas emissions through the creation of a domestic carbon market and international trade measures, and to direct the revenue therefrom to public interests.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title- This Act may be cited as the `Climate Market, Auction, Trust & Trade Emissions Reduction System Act of 2008' or the `Climate MATTERS Act of 2008'.

(b) Table of Contents- The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Purposes.

TITLE I--GLOBAL COOPERATION**Subtitle A--General Provisions**

Sec. 101. Definitions.

Subtitle B--International Reserve Allowances

Sec. 111. International reserve allowance program.

Sec. 112. Adjustment of international reserve allowance requirements.

Sec. 113. International Climate Change Commission.

Sec. 114. Determinations of comparable action.

Sec. 115. International agreements.

TITLE II--REVENUE PROVISIONS

Sec. 201. Issuing, auctioning, and administering emissions allowances.

TITLE III--CITIZEN PROTECTION AND DEFICIT REDUCTION TRUST FUNDS**Subtitle A--Establishment of Trust Funds**

Sec. 301. Establishment of citizen protection and deficit reduction trust funds.

Subtitle B--Citizen Protection Programs

Sec. 310. Definitions.

Part 1--Consumer Assistance

Sec. 311. Allocation of account funds.

Sec. 312. Climate change rebate program.

Sec. 313. Healthy families fund.

Part 2--Investment in Natural Resource Adaptation

Sec. 321. Definitions.

Sec. 322. Adaptation fund.

Part 3--Early Action

Sec. 331. Early action.

Part 4--State and Tribal Action

Sec. 341. Allocation for energy savings.

Sec. 342. Allocation for States with programs that exceed Federal emission reduction targets.

Sec. 343. General allocation.

Part 5--Domestic Agriculture and Forestry

Sec. 351. Allocation.

Sec. 352. Agricultural and forestry greenhouse gas management research.

Sec. 353. Distribution.

Part 6--International Forestry

Sec. 361. Findings.

Sec. 362. Definition of deforestation reduction activities.

Sec. 363. Allocation.

Sec. 364. Quality criteria for deforestation reduction activities.

Sec. 365. Eligibility for deforestation reduction activities.

Sec. 366. Reviews and discount.

Part 7--Energy Efficiency

Sec. 371. Allocation.

Sec. 372. Distribution.

Sec. 373. Use.

Sec. 374. Reporting.

Part 8--Alternative Transportation

Sec. 381. Grants to provide for additional and improved public transportation service.

Sec. 382. Grants for construction of new public transportation projects.

Sec. 383. Grants for transportation alternatives and travel demand reduction projects.

Sec. 384. Technical capacity and standards.

Sec. 385. Study and standards.

Sec. 386. Condition for receipt of funds.

TITLE IV--EMISSIONS DETERMINATIONS AND MISCELLANEOUS

Sec. 401. Definitions.

Sec. 402. Federal Greenhouse Gas Registry, emissions determination, and uncovered sector emissions.

Sec. 403. Paramount interest waiver.

Sec. 404. Administrative procedure and judicial review.

Sec. 405. Retention of State authority.

Sec. 406. Tribal authority.

Sec. 407. Authorization of appropriations.

SEC. 2. PURPOSES.

The purposes of this Act are--

- (1) to establish the core of a Federal program that will reduce United States greenhouse gas emissions substantially enough between 2008 and 2050 to avert the catastrophic impacts of global climate change;
- (2) to raise revenue to be used for positive environmental and social purposes to offset the effects of climate change; and
- (3) to accomplish that purpose while preserving robust growth in the United States economy, creating new jobs, and avoiding the imposition of hardship on United States citizens.

TITLE I--GLOBAL COOPERATION**Subtitle A--General Provisions****SEC. 101. DEFINITIONS.**

In this title:

- (1) ADMINISTRATOR- The term `Administrator' means the Administrator of the Environmental Protection Agency.
- (2) BASELINE EMISSIONS LEVEL-
 - (A) COVERED GOODS- With respect to covered goods of a WTO participant, the term `baseline emissions level' means, as determined by the Commission, the total average annual greenhouse gas emissions attributed to a category of covered goods of the WTO participant during the period beginning on January 1, 2010, and ending on December 31, 2012, based on--
 - (i) relevant data available for that period; and
 - (ii) to the extent necessary with respect to a specific category of covered goods, economic and engineering models and best available information on technology performance levels for the manufacture of that category of covered goods.
 - (B) WTO PARTICIPANTS- With respect to a WTO participant, the term `baseline emissions level' means, as determined by the Commission, the total annual nationwide greenhouse gas emissions attributed to the WTO participant during the period beginning on January 1, 2010, and ending on December 31, 2012, based on best available information.
- (3) BEST AVAILABLE INFORMATION- The term `best available information' means--
 - (A) all relevant data that is available for the particular period; and
 - (B) to the extent necessary, economic and engineering models, best available information on technology performance levels, and any other useful measure or technique for estimating the emissions from such emissions activities.
- (4) CARBON DIOXIDE EQUIVALENT- The term `carbon dioxide equivalent' means, for each greenhouse gas, the quantity of the greenhouse gas that the Administrator determines makes the same contribution to global warming as 1 metric ton of carbon dioxide.
- (5) COMMISSION- The term `Commission' means the International Climate Change Commission established under section 113.
- (6) COMPARABLE ACTION- The term `comparable action' means any greenhouse gas regulatory programs, requirements, and other measures adopted by a WTO participant that, in combination, are comparable in effect to actions carried out by the United States, through Federal, State, and local measures, to limit greenhouse gas emissions pursuant to this Act and the amendments made by this Act, as determined by the Commission under section 114.
- (7) COMPLIANCE YEAR- The term `compliance year' means each calendar year for which the requirements of this title apply to a category of covered goods of a covered WTO participant that is imported into the United States.
- (8) COVERED WTO PARTICIPANT- The term `covered WTO participant' means a WTO participant that is included on the covered list prepared under section 111 (b)(3).

(9) COVERED GOOD- The term `covered good' means a good that (as identified by the Secretary, in consultation with the Administrator, by rule)--

(A) is a primary product or a manufactured item for consumption;

(B) generates, in the course of the manufacture of the good, a substantial quantity of greenhouse gas emissions, including indirect greenhouse gas emissions; and

(C) is closely related to a good the cost of production of which in the United States is affected by a requirement of this Act or the amendments made by this Act.

(10) EMISSION ALLOWANCE- The term `emission allowance' means an authorization to emit 1 carbon dioxide equivalent of greenhouse gas.

(11) ENTER; ENTRY- The terms `enter' and `entry' into the United States refer to the entry, or withdrawal from warehouse for consumption, in the customs territory of the United States.

(12) GREENHOUSE GAS- The term `greenhouse gas' means any of--

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) sulfur hexafluoride;

(E) a perfluorocarbon;

(F) a hydrofluorocarbon; or

(G) any other anthropogenically-emitted gas that is determined by the Administrator, after notice and comment, to contribute to global warming to a non-negligible degree.

(13) GREENHOUSE GAS EMISSIONS- The term `greenhouse gas emissions' means emissions of a greenhouse gas, including--

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

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

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

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

(14) INDIRECT GREENHOUSE GAS EMISSIONS- The term `indirect greenhouse gas emissions' means any greenhouse gas emissions resulting from the generation of electricity that is consumed during the manufacture of a good.

(15) INTERNATIONAL RESERVE ALLOWANCE- The term `international reserve allowance' means an allowance (denominated in units of metric tons of carbon dioxide equivalent) that is--

(A) purchased from a special reserve of emission allowances pursuant to section 111(a)(2); and

(B) used for purposes of meeting the requirements of section 111.

(16) MANUFACTURED ITEM FOR CONSUMPTION- The term `manufactured item for consumption' means any good or product--

(A) that is not a primary product;

(B) that generates, in the course of its manufacture, a substantial amount of direct greenhouse gas emissions or indirect greenhouse gas emissions, including such emissions that are attributable to the inclusion of a primary product in the manufactured item for consumption; and

(C) for which the Commission determines that the application of an international reserve allowance requirement under section 111 to the particular category of goods or products is administratively feasible and necessary to achieve the purposes of this title.

(17) PERCENTAGE CHANGE IN GREENHOUSE GAS EMISSIONS- The term `percentage change in greenhouse gas emissions' means, as determined by the Secretary, in consultation with the Administrator, the percentage by which greenhouse gas emissions on a nationwide basis in a WTO participant has decreased or increased (as the case may be) from the baseline emissions level of the WTO participant. The percentage change for a WTO participant shall equal the quotient obtained by dividing--

(A) the amount of the decrease or increase in the total nationwide emissions for the WTO participant, as measured by comparing such total emissions for the relevant calendar year, to the baseline emissions level for the WTO participant; by

(B) the baseline emissions level for the WTO participant.

(18) PRIMARY PRODUCT- The term `primary product' means--

(A) iron, steel, aluminum, cement, bulk glass, paper pulp, chemicals, or industrial ceramics; or

(B) any other manufactured product that--

(i) is sold in bulk for purposes of further manufacture; and

(ii) generates, in the course of the manufacture of the product, greenhouse gas emissions and indirect greenhouse gas emissions that are comparable (on an emissions-per-dollar basis) to emissions generated in the manufacture of products by covered facilities in the industrial sector.

(19) RETIRE AN ALLOWANCE- To `retire' an allowance is to disqualify the allowance for any subsequent use, regardless of whether the use is a sale, exchange, or submission of the allowance in satisfying a compliance obligation.

(20) SECRETARY- The term `Secretary' means the Secretary of the Treasury.

(21) SEQUESTRATION- The term `sequestration' means the capture, permanent separation, isolation, or removal of greenhouse gases from the atmosphere, as determined by the Secretary, after consultation with the Administrator.

(22) TRADE AGREEMENT- The term `trade agreement' means any agreement between the United States and one or more foreign countries providing for the reduction of tariff or nontariff barriers, including the Agreement establishing the World Trade Organization, done at Marrakesh on April 15, 1994.

(23) U.S. CUSTOMS AND BORDER PROTECTION- The term `U.S. Customs and Border Protection' means U.S. Customs and Border Protection of the Department of Homeland Security.

(24) WTO PARTICIPANT- The term `WTO participant' means a member of, or observer government to, the World Trade Organization (WTO), other than the United States.

Subtitle B--International Reserve Allowances

SEC. 111. INTERNATIONAL RESERVE ALLOWANCE PROGRAM.

(a) Establishment-

(1) IN GENERAL- The Secretary shall establish a program under which the Secretary, during the 1-year period beginning on January 1, 2014, and annually thereafter, shall offer for sale to United States importers international reserve allowances in accordance with this subsection.

(2) SOURCE- International reserve allowances under paragraph (1) shall be issued from a special reserve of emission allowances that is separate from, and established in addition to, the quantity of emission allowances established under section 9911 of the Internal Revenue Code of 1986.

(3) PRICE-

(A) IN GENERAL- Subject to subparagraph (B), the Secretary shall establish, by rule, a methodology for determining the price of international reserve allowances for each compliance year at a level that does not exceed the market price of emission allowances established under section 9911 of the Internal Revenue Code of 1986 for the compliance year.

(B) MAXIMUM PRICE- The price for an international reserve allowance under subparagraph (A) shall not exceed the clearing price for current compliance year allowances established at the most recent auction of allowances under section 9912 of the Internal Revenue Code of 1986.

(4) SERIAL NUMBER- The Secretary shall assign a unique serial number to each international reserve allowance issued under this subsection.

(5) ADMINISTRATION OF SYSTEM- The Secretary may provide, by rule, for the administration of the system of international reserve allowances in a manner consistent with the carbon market established under subtitle L of the Internal Revenue Code of 1986.

(6) REGULATED ENTITIES- International reserve allowances may not be submitted by persons subject to the allowance submission requirements of section 9901 or 9913 of the Internal Revenue Code of 1986 to comply with such allowance submission requirements.

(7) PROCEEDS- All proceeds from the sale of international reserve allowances under this subsection shall be allocated to a program that the Secretary, in coordination with the Secretary of State, shall establish to mitigate the negative impacts of global climate change on disadvantaged communities in WTO participants.

(b) WTO Participant Lists-

(1) IN GENERAL- Not later than January 1, 2015, and annually thereafter, the Secretary shall develop and publish in the Federal Register 2 lists of WTO participants, in accordance with this subsection.

(2) EXCLUDED LIST-

(A) IN GENERAL- The Secretary, in consultation with the Commission, shall identify and publish in a list, to be known as the 'excluded list'--

(i) each WTO participant determined by the Commission under section 114(a) to have taken action comparable to that taken by the United States to limit the greenhouse gas emissions of the WTO participant;

(ii) each WTO participant that has entered into an agreement with the United States under subsection (a) or (b) of section 115;

(iii) each WTO participant the share of total global greenhouse gas emissions of which is below the de minimis percentage described in subparagraph (B); and

(iv) each WTO participant that the United Nations has identified as among the least developed of developing countries.

(B) DE MINIMIS PERCENTAGE- The de minimis percentage referred to in subparagraph (A) is a percentage of total global greenhouse gas emissions of not more than 0.5, as determined by the Commission, for the most recent calendar year for which emissions and other relevant data is available, taking into consideration, as necessary, the annual average deforestation rate during a representative period for a WTO participant that is a developing country.

(3) COVERED LIST-

(A) IN GENERAL- The Secretary, in consultation with the Commission, shall identify and publish in a list, to be known as the 'covered list', each WTO participant the covered goods of which are subject to the requirements of this section.

(B) REQUIREMENT- The covered list shall include each WTO participant that is not included on the excluded list under paragraph (2).

(4) PRESIDENTIAL AUTHORITY- Notwithstanding paragraphs (2) and (3), the President may require the Commission to place a WTO participant on the excluded list or covered list if the President determines such action is necessary to protect essential security interests of the United States.

(c) Publication of Covered Goods- The Secretary, in consultation with the Commission, shall publish a list of all covered goods of each WTO participant on the covered list.

(d) Written Declarations-

(1) IN GENERAL- Effective beginning January 1, 2015, a United States importer of any covered good shall, as a condition of the entry of the covered good into the United States, submit to the Secretary and the appropriate office of U.S. Customs and Border Protection a written declaration, with respect to each such entry, that meets the requirements of this subsection.

(2) CONTENTS- A written declaration under paragraph (1) shall contain a statement that--

(A) the applicable covered good is accompanied by a sufficient number of international reserve allowances, as determined under subsection (e); or

(B) the covered good is from a WTO participant on the excluded list under subsection (b)(2).

(3) DOCUMENTATION AND DEPOSIT- If an importer does not certify that the covered good is a product of a WTO participant on the excluded list under paragraph (2)(B), the written declaration for such good shall include the following supporting documentation and deposit:

(A) The name of each WTO participant in which the covered good was manufactured or processed.

(B) A brief description of the extent to which the covered good was manufactured or processed in each WTO participant identified under subparagraph (A).

(C) An estimation of the number of international reserve allowances that are required for entry of the covered good into the United States under subsection (e).

(D) At the election of the importer, the deposit of--

(i) international reserve allowances in an amount equal to the estimated number required for entry under subparagraph (C); or

(ii) a bond, other security, or cash in an amount that covers the purchase of the estimated number of international reserve allowances under subparagraph (C).

(4) FINAL ASSESSMENT-

(A) IN GENERAL- Not later than 6 months after submission of the written declaration and entry of the covered good under paragraph (1), the Secretary shall make a final assessment of the international reserve allowance requirement for the covered good under this section. The final assessment shall specify the total number of international reserve allowances that are required for entry of the covered good into the United States and whether the amount of the deposit under paragraph (3)(D) is lower or higher than the final assessment..

(B) RECONCILIATION-

(i) ALLOWANCE DEPOSIT- U.S. Customs and Border Protection shall promptly reconcile the final assessment with the

amount of international reserve allowances deposited under paragraph (3)(D)(i). If international reserve allowances are deposited in an amount that is more than the final assessment, U.S. Customs and Border Protection shall refund the excess amount. If such allowances are deposited in an amount that is less than final assessment, the importer shall tender within 14 days sufficient allowances to satisfy fully the final assessment.

(ii) BOND, SECURITY, OR CASH DEPOSIT- If an importer has submitted a bond, security, or cash deposit under paragraph (3)(D), U.S. Customs and Border Protection shall use the deposit to purchase a sufficient number of international reserve allowances, as determined in the final assessment under subparagraph (A). To the extent that the deposit fails to cover the purchase of sufficient international reserve allowances, the importer shall submit such additional allowances to cover the shortfall of allowances. To the extent that the amount of the deposit is more than the amount of the final assessment, U.S. Customs and Border Protection shall refund to the importer the unused portion of the deposit.

(5) INCLUSION- A written declaration under this subsection shall include the unique serial number of each international reserve allowance associated with the entry of the applicable covered good into the United States.

(6) FAILURE TO DECLARE- A covered good that is not accompanied by a written declaration that meets the requirements of this subsection shall not be permitted to be entered into the United States.

(7) CORRECTED DECLARATION-

(A) IN GENERAL- If, after making a declaration required under this subsection, an importer has reason to believe that the declaration contains information that is not correct, the importer shall provide a corrected declaration by not later than 30 days after the date of discovery of the error, in accordance with subparagraph (B).

(B) METHOD- A corrected declaration under subparagraph (A) shall be in the form of a letter or other written statement to the Secretary and to the office of U.S. Customs and Border Protection to which the original declaration was submitted.

(e) Quantity of Allowances Required-

(1) METHODOLOGY-

(A) IN GENERAL- The Secretary shall establish, by rule, a method for calculating the required number of international reserve allowances that a United States importer must submit, together with a written declaration under subsection (d), for each category of covered goods of each covered WTO participant.

(B) FORMULA- The Secretary shall develop a general formula for calculating the international reserve allowance requirement that applies, on a per unit basis, to each covered good of a covered WTO participant that is imported during each compliance year.

(2) GENERAL FORMULA- The international allowance reserve requirement, as described in paragraph (1), for a compliance year is equal to the product obtained by multiplying--

(A) the national greenhouse gas intensity rate for each category of covered goods of each covered WTO participant for the compliance year, as determined by the Secretary under paragraph (3), by

(B) the allowance adjustment factor for the industry sector in the WTO participant that manufactured the covered goods that entered into the United States, as determined by the Secretary under paragraph (4), by

(C) the economic adjustment ratio for the WTO participant, as determined by the Commission under paragraph (5).

(3) NATIONAL GREENHOUSE GAS INTENSITY RATE- The national greenhouse gas intensity rate for a particular WTO participant under paragraph (2)(A), on a per unit basis, shall be equal to the quotient obtained by dividing--

(A) the total amount of direct greenhouse gas emissions and indirect greenhouse gas emissions that are attributable to a category of covered goods of a covered WTO participant during the most recent calendar year (as adjusted to exclude those emissions that would not be subject to the allowance submission requirements of section 9913 of the Internal Revenue Code of 1986 or the category of covered goods if manufactured in the United States), by

(B) the total number of units of the particular covered good that are produced in the covered WTO participant during the same calendar year.

(4) ALLOWANCE ADJUSTMENT FACTOR-

(A) GENERAL FORMULA- The allowance adjustment factor for a particular WTO participant under paragraph (2)(B) for a compliance year shall be equal to 1 minus the ratio that--

(i) the number of allowances, as determined by the Secretary under subparagraph (B), that the entire industry sector in the WTO participant would have received for that compliance year at no cost if such allowances were allocated in the same manner that allowances are allocated at no cost under subtitle L of the Internal Revenue Code of 1986 to the same industry sector in the United States, bears to

(ii) the total amount of direct greenhouse gas emissions and indirect greenhouse gas emissions that are attributable to a category of covered goods of the covered WTO participant during that compliance year.

(B) ALLOWANCES ALLOCATED AT NO COST.- The number of allowances allocated at no cost under subparagraph (A)(i) shall be equal to the product obtained by multiplying--

(i) the baseline emissions level that the Commission has attributed to a category of covered goods of the WTO participant, by

(ii) the ratio that--

(I) the quantity of allowances that are allocated at no cost under subtitle L of the Internal Revenue Code of 1986 to entities within the industry sector that manufactures the covered goods for the compliance year during which the covered goods were entered into the United States, bears to

(II) the total amount of direct greenhouse gas emissions and indirect greenhouse gas emissions of that sector during a particular compliance year.

(5) ECONOMIC ADJUSTMENT RATIO- The economic adjustment ratio for a particular WTO participant under paragraph (2)(C) shall be 1 unless the Commission makes an affirmative decision to lower the ratio in order to take into account the extent to which the WTO participant has fully implemented, verified, and enforced the following:

(A) The deployment and use of state-of-the-art technologies in industrial processes, equipment manufacturing facilities, power generation and other energy facilities, and consumer goods (such as automobiles and appliances), and implementation of other techniques or actions that have the effect of limiting greenhouse gas emissions in the WTO participant during the relevant period.

(B) Any regulatory programs, requirements, and other measures that the WTO participant has implemented to limit greenhouse emissions during the relevant period.

(6) ANNUAL CALCULATION- The Secretary shall calculate the international reserve allowance requirements for each compliance year based on the best available information and annually revise the applicable international reserve allowance requirements to reflect changes in the variables of the formula described in this subsection.

(7) PUBLICATION- Not later than 90 days before the beginning of each compliance year, the Secretary shall publish in the Federal Register a schedule describing the required number of international reserve allowances for each category of imported covered goods of each covered WTO participant, as calculated under this subsection.

(8) COVERED GOODS FROM MULTIPLE COUNTRIES-

(A) IN GENERAL- The Secretary shall establish, by rule, procedures for determining the number of the international reserve allowances that a United States importer must submit under this subsection for a category of covered goods that are primary products and manufactured or processed in more than one WTO participant. Subject to subparagraph (B), such procedures shall require the importer--

(i) to determine for each covered WTO participant listed in the written declaration, as required by subsection (d), the number of international reserve allowances that apply under paragraph (2) of this subsection to the category of covered goods that are manufactured and processed entirely in that covered WTO participant for the particular compliance year; and

(ii) of the international reserve allowance requirements identified under clause (i) for particular covered WTO participants, to apply the requirement that imposes the highest number of international reserve allowances for the category of covered goods.

(B) EXCEPTION- The procedures for setting the international reserve allowance requirement under subparagraph (A) shall not apply if the Secretary grants a request by the importer to apply an alternate method for establishing such requirement. The Secretary shall grant such a request only if the importer demonstrates in an administrative hearing by a preponderance of evidence that the alternate method will establish an international reserve allowance requirement that is more representative than the requirement applicable under subparagraph (A).

(C) ADMINISTRATIVE HEARING- The Secretary shall establish procedures for administrative hearings under subparagraph (B) to ensure that--

(i) all evidence submitted by an importer will be subject to verification by the Secretary;

(ii) domestic manufacturers of the category of covered goods subject to the administrative hearing under this paragraph will have an opportunity to review and comment on evidence submitted by the importer; and

(iii) appropriate penalties will be assessed in cases where the importer has submitted information that is false or misleading.

(f) Foreign Allowances-

(1) FOREIGN ALLOWANCES UNDER CAP AND TRADE PROGRAM-

(A) IN GENERAL- A United States importer may submit, in lieu of an international reserve allowance issued under this section, a foreign allowance distributed by a WTO participant pursuant to a commensurate cap and trade program.

(B) COMMENSURATE CAP AND TRADE PROGRAM- For purposes of subparagraph (A), a commensurate cap and trade program shall include any greenhouse gas regulatory program adopted by a covered WTO participant to limit the greenhouse gas emissions of the covered WTO participant, if--

(i) the Secretary certifies that the program--

(I)(aa) places a quantitative limitation on the total quantity of greenhouse gas emissions of the covered WTO participant (expressed in terms of tons emitted per calendar year); and

(bb) achieves that limitation through an allowance trading system;

(II) satisfies such criteria as the Secretary may establish for requirements relating to the enforceability of the cap and trade program, including requirements for monitoring, reporting, verification procedures, allowance tracking, and offsets; and

(III) is a comparable action, as determined by the Commission; or

(ii) the program is the result of an agreement under section 115(b).

(2) INTERNATIONAL FOREST ALLOWANCES- A United States importer may submit, in lieu of an international reserve allowance issued under this section, an international forest allowance generated under an agreement to undertake international forest carbon activities under section 115(c).

(3) TRADING OF FOREIGN ALLOWANCES- Foreign allowances described in paragraphs (1) and (2) may be traded on the carbon market established under subtitle L of the Internal Revenue Code of 1986.

(g) Retirement of Allowances- The Secretary shall retire each international reserve allowance and foreign allowance submitted to achieve compliance with this section.

(h) Consistency With Trade and Other International Agreements- The Secretary, in consultation with the Secretary of State, shall adjust the international reserve allowance requirements established under this section (including the quantity of international reserve allowances required for each category of covered goods of a covered WTO participant) as the Secretary determines to be necessary to ensure that the United States complies with all applicable trade agreements and other international agreements to which the United States is a party.

(i) Final Regulations- Not later than January 1, 2014, the Secretary shall promulgate such regulations as the Secretary determines to be necessary to carry out this section.

SEC. 112. ADJUSTMENT OF INTERNATIONAL RESERVE ALLOWANCE REQUIREMENTS.

(a) In General- Not later than January 1, 2018, and annually thereafter, the Commission shall prepare and submit to Congress a report that assesses the effectiveness of the applicable international reserve allowance requirements under section 111 with respect to--

(1) covered goods that are entered into the United States from each covered WTO participant; and

(2) the production of covered goods in covered WTO participants that are incorporated into manufactured goods that subsequently are entered into the United States.

(b) Inadequate Requirements- If the Commission determines that an applicable international reserve allowance requirement is not adequate to achieve the purposes of this title, the Commission, simultaneously with the submission of the report under subsection (a), shall make recommendations to--

(1) increase the stringency or otherwise improve the effectiveness of the applicable requirements in a manner that ensures compliance with all applicable trade agreements and other international agreements;

(2) take action to address greenhouse gas emissions that are attributable to the production of manufactured items for consumption that are not subject to the international reserve allowance requirements under section 111; or

(3) take such other action as the Commission determines to be necessary to address greenhouse gas emissions that are attributable to the production of covered goods in covered WTO participants, in compliance with all applicable trade agreements and other international agreements.

(c) Revised Regulations- The Secretary, in consultation with the Commission, shall promulgate revised regulations to implement the recommended changes under subsection (b) to improve the effectiveness of the international reserve allowance requirements.

(d) Effective Date- Any revision made under subsection (c) shall take effect on January 1 of the first compliance year beginning after the date on which the revision is made.

SEC. 113. INTERNATIONAL CLIMATE CHANGE COMMISSION.

(a) Establishment- There is established a commission that shall be known as the 'International Climate Change Commission'.

(b) Organization-

(1) MEMBERSHIP- The Commission shall be composed of 6 commissioners who shall be appointed by the President, by and with the advice and consent of the Senate. A person shall not be eligible for appointment as a commissioner unless that person--

(A) is a citizen of the United States; and

(B) has, in the judgment of the President, the requisite qualifications for developing the knowledge and expertise on international climate change matters that are necessary for performing the duties and functions of the Commission under this title.

(2) APPOINTMENTS OF COMMISSIONERS- Not later than 3 months after date of the enactment of this Act, the President shall appoint the commissioners in accordance with this subsection. If the President fails to appoint one or more of the commissioners under this paragraph by the end of that 3-month period, then--

(A) the United States International Trade Commission shall, within the succeeding 3-month period, appoint the remaining commissioners; and

(B) the authority of the President to appoint the remaining commissioners terminates.

(3) POLITICAL AFFILIATION- Not more than 3 of the commissioners serving at any time shall be affiliated with the same political party. In making the appointments, members of different parties shall be appointed alternatively as nearly as may be practicable.

(4) TERM OF COMMISSIONERS; REAPPOINTMENT-

(A) IN GENERAL- The term of a commissioner shall be 12 years, except that commissioners first taking office under paragraph (2) shall be appointed to the Commission in a manner that ensures that--

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

(ii) no commissioner serves a term of more than 12 years.

(B) SERVICE UNTIL NEW APPOINTMENT- The term of a commissioner shall continue after the expiration of that commissioner's term until the date on which a replacement is appointed by the President and confirmed by the Senate, except that the successor's term begins upon the original expiration of the predecessor's term.

(C) VACANCY- Any commissioner appointed to fill a vacancy occurring before the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of the term.

(D) REAPPOINTMENT- A person who has served as commissioner for more than 7 years shall not be eligible for reappointment.

(5) CHAIRPERSON AND VICE-CHAIRPERSON-

(A) IN GENERAL- The President shall designate a Chairperson and Vice Chairperson of the Commission from the commissioners that are eligible for designation under subparagraph (B). The Chairperson and Vice-Chairperson shall each serve for a term of 4 years. If the President fails to designate the Chairperson for any term, the commissioner with the longest period of continuous service shall serve as Chairperson for that term.

(B) ELIGIBILITY REQUIREMENTS-

(i) CHAIRPERSON- The President may designate as the Chairperson of the Commission for any term any commissioner who is not affiliated with the political party with which the Chairperson of the Commission for the immediately preceding year is affiliated, and who (except in the case of the first commissioners) has at least 1 year of continuous service as a commissioner.

(ii) VICE-CHAIRPERSON- The President may designate as the Vice Chairperson of the Commission for any term any commissioner who is not affiliated with the political party with which the Chairperson is affiliated.

(6) VOTING-

(A) IN GENERAL- The Commission shall vote on the adoption of each action that is identified in subparagraph (D). Such a vote on a Commission action shall occur at a public meeting of the Commission for which a quorum is present. A majority of commissioners that are in office shall constitute a quorum for a meeting of the Commission.

(B) ADOPTION- A Commission action identified in subparagraph (D) shall take effect upon adoption by the Commission in accordance with the requirements of this paragraph. Subject to subparagraph (C), the adoption of a Commission action shall occur if a majority of the commissioners in attendance at the meeting (as well as any commissioners voting by proxy) vote in favor of such action.

(C) EQUALLY DIVIDED VOTES- In cases when the commissioners voting are equally divided on whether or not a WTO participant has taken comparable action under section 114, the Commission shall be deemed to have made an affirmative determination that the WTO participant has not taken comparable action.

(D) COMMISSION ACTIONS- A Commission action for purposes of this paragraph shall include the performance of the duties specified under subsection (c) and the exercise of the enforcement powers authorized under subsection (d).

(c) Duties- The duties of the Commission shall include--

(1) determinations on whether a WTO participant is taking comparable action under section 114;

(2) establishment of WTO participant lists under section 111(b);

(3) classification of a category of goods or products as a manufactured item for consumption under section 101(16)(C);

(4) adjustment of the international reserve allowance requirements pursuant to section 112; and

(5) performance of other actions that are necessary for the implementation of the provisions of this title.

(d) Enforcement Powers-

(1) PENALTY FOR NONCOMPLIANCE- The Commission may impose an excess emissions penalty on a United States importer of covered goods if that importer fails to submit the required number of international reserve allowances under section 111. Such penalty for noncompliance shall be equal to the amount of an excess emissions penalty that an owner or operator of a covered facility is required to submit for noncompliance under section 9901 of the Internal Revenue Code of 1986.

(2) PROHIBITION ON IMPORTERS- The Commission may prohibit a United States importer from entering covered goods into the United States for a period not to exceed 5 years if that importer--

(A) fails to pay a penalty for noncompliance imposed under paragraph (1); or

(B) submits a written declaration under section 111(d) that provides false or misleading information for the purpose of circumventing the international reserve requirements of this title.

(3) DELEGATION- The Commission, as appropriate, may delegate to U.S. Customs and Border Protection the enforcement powers that are authorized under this subsection. U.S. Customs and Border Protection shall exercise such enforcement powers in accordance with procedures and requirements that the Commission may establish.

SEC. 114. DETERMINATIONS OF COMPARABLE ACTION.

(a) Determinations-

(1) ANNUAL DETERMINATIONS- Not later than January 1, 2014, and annually thereafter, the Commission shall determine whether, and the extent to which, each WTO participant that is not exempted under subsection (b) has taken comparable action during the preceding 1-year period to limit the greenhouse gas emissions of the WTO participant, taking into consideration the baseline emissions levels of the WTO participant.

(2) BASIS FOR DETERMINATIONS- The Commission shall make a determination on whether a WTO participant has taken comparable action for a particular year under paragraph (1) based on the best available information and in accordance with the following requirements:

(A) A WTO participant shall be considered to have taken comparable action if the Commission determines that the percentage change in greenhouse gas emissions in the WTO participant during the relevant period is equal to, or better than, the percentage change in greenhouse emissions in the United States during that same period.

(B) In the case of a WTO participant that is not considered to have taken comparable action under subparagraph (A), the Commission shall take into consideration, in making a determination on comparable action for that WTO participant, the extent to which the following actions have been taken, implemented, verified, and enforced:

(i) The deployment and use of state-of-the-art technologies in industrial processes, equipment manufacturing facilities, power generation and other energy facilities, and consumer goods (such as automobiles and appliances), and implementation of other techniques or actions that have the effect of limiting greenhouse gas emissions in the WTO participant during the relevant period.

(ii) Any regulatory programs, requirements, and other measures that the WTO participant has implemented to limit greenhouse emissions during the relevant period.

(C) If a WTO participant is a party to an international climate change agreement that imposes binding greenhouse gas emissions limitations on the WTO participant, the Commission shall give appropriate credit for net transfers to the WTO participant of greenhouse gas emissions allowances or other units issued with respect to emissions reductions or sequestrations in other WTO participants pursuant to such international agreement.

(D) The Commission shall ensure that any determination on comparable action that the Commission makes under this paragraph complies with applicable trade agreements and other international agreements.

(b) Exemptions- The Commission shall exempt from a determination under subsection (a) in a calendar year any WTO participant that is placed on the excluded list pursuant to clause (ii), (iii), or (iv) of section 111(b)(2)(A) for that calendar year.

(c) Reports- The Commission shall, as expeditiously as practicable--

(1) submit to the President and Congress an annual report describing the determinations of the Commission under subsection (a) for the most recent calendar year; and

(2) publish the determinations in the Federal Register.

(d) Reports- The President shall--

(1) submit to Congress an annual report describing the determinations of the President under subsection (a) for the most recent calendar year; and

(2) publish the determinations in the Federal Register.

SEC. 115. INTERNATIONAL AGREEMENTS.

(a) Negotiating Objective-

(1) STATEMENT OF POLICY- Consistent with the obligations of the United States under the World Trade Organization, 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 representing comparable action and committing all major greenhouse gas-emitting WTO participants to contribute equitably to the reduction of global greenhouse gas emissions. Any such agreement shall be considered comparable action only if it includes a maximum level on net greenhouse gas emissions into the atmosphere.

(2) INTENT OF CONGRESS REGARDING OBJECTIVE- To the extent that the agreements described in paragraph (1) involve measures that will affect international trade in any good or service, it is the intent of the Congress that the negotiating objective of the United States shall be to focus multilateral and bilateral international agreements on the reduction of greenhouse gas emissions.

(3) ROLE OF THE PRESIDENT- The President shall be responsible for negotiating agreements under this subsection.

(b) Premium Carbon Market Access Agreements-

(1) AVAILABILITY- In negotiations described in subsection (a), the President shall place a high priority on securing agreements that ensure comparable action on the part of WTO participants. In support of this goal, the President shall offer, on a limited basis, WTO participants that are developing countries Premium Carbon Market Access Agreements extending to such a WTO participant access to the carbon market established under subtitle L of the Internal Revenue Code of 1986. Such agreements may also include additional incentives such as the ability to choose the base year or maximum level of allowable greenhouse gas emissions for its emissions trading system, rather than requiring it to match the system as in effect in the United States.

(2) CONDITIONS- The President shall determine a global greenhouse gas emissions budget that protects the climate, and the President shall offer Premium Carbon Market Access Agreements under this subsection on a first-come, first-served basis, only to the extent that they, in total, do not allow that global budget to be exceeded. An emissions cap and trading system established in conformance with an agreement entered into under this subsection shall be considered a comparable action for purposes of this Act only if it includes a maximum level on net greenhouse gas emissions into the atmosphere.

(c) Agreements To Undertake International Forest Carbon Activities-

(1) IN GENERAL- In the case of a WTO participant that is a developing country and is not yet ready to enter a comprehensive agreement under subsection (a) or (b), the President shall attempt to secure an agreement with such WTO participant pursuant to which--

(A) the WTO participant agrees to undertake international forest carbon activities, including reducing its rate of deforestation, under the conditions specified in paragraphs (2) and (3); and

(B) such international forest carbon activities may qualify for international forest allowances that may be traded on the carbon market established under subtitle L of the Internal Revenue Code of 1986.

(2) QUALITY REQUIREMENTS- The President shall establish requirements for international forest carbon activities that qualify for the creation of international forest allowances under paragraph (1), including--

(A) ensuring that qualifying international forest carbon activities are designed, carried out, and managed--

(i) in accordance with widely-accepted environmentally sustainable forestry practices;

(ii) to promote native species and conservation and/or restoration of native forests, where practicable and to avoid the introduction of invasive nonnative species; and

(iii) to promote fair compensation, public participation, and the informed consent of affected local communities and forest dependent populations; and

(B) ensuring that the emission reductions or sequestrations are real, permanent, additional, verifiable, and enforceable, with reliable measuring and monitoring and appropriate accounting for leakage.

(3) ELIGIBILITY CRITERIA- The President shall establish eligibility criteria for any WTO participant to enter into negotiations for an agreement to undertake international forest carbon activities, including a requirement that such WTO participant has--

(A) demonstrated the capacity to participate in international forest carbon activities, based on sufficient accurate and verifiable data on changes in national forest carbon stocks;

(B) capped greenhouse gas emissions from deforestation or other land use change or otherwise established a credible national emission reference scenario;

(C) commenced an emission reduction program for the forest sector;

(D) achieved national-level reductions of deforestation and degradation below a credible reference scenario that are consistent with nationally appropriate mitigation commitments or actions, taking into account the average annual deforestation and degradation rates of the WTO participant during a period of at least 5 consecutive years; and

(E) demonstrated those reductions using remote sensing technology, taking into account relevant international standards.

(4) DEFINITION- In this subsection, the term `international forest carbon activities' means activities in developing countries that are conducted at the national level and are directed at--

(A) reducing greenhouse gas emissions produced from deforestation and forest degradation; and

(B) increasing sequestration of carbon through restoration of forests, restoration of degraded land that has not been forested prior to restoration, afforestation, using native species where practicable, and improved forest management.

TITLE II--REVENUE PROVISIONS

SEC. 201. ISSUING, AUCTIONING, AND ADMINISTERING EMISSIONS ALLOWANCES.

(a) In General- The Internal Revenue Code of 1986 is amended by adding at the end the following new subtitle:

Subtitle L--Auction Based Carbon Market

Chapter 101--Emission Allowances

CHAPTER 101--EMISSION ALLOWANCES

Subchapter A--Excess Emissions Penalty

Sec. 9901. Excess emissions penalty.

SEC. 9901. EXCESS EMISSIONS PENALTY.

(a) Imposition of Penalty- The owner or operator of any covered facility that fails for any year to submit to the Secretary, by the deadline described in section 9913(a), 1 or more of the emission allowances due pursuant to such section shall be liable for the payment to the Secretary of an excess emissions penalty on the date of such failure.

(b) Amount- The amount of an excess emissions penalty required to be paid under paragraph (1) shall be an amount equal to the product obtained by multiplying--

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

(2) the greater of--

(A) \$200; or

(B) 3 times the mean market value (as determined by the Secretary) of an emission allowance during the calendar year for which the emission allowances were due.

(c) Deficiency Procedures Not To Apply- Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).

(d) Coordination With Other Penalties- The penalty imposed by this section shall be in addition to any other penalty imposed under any other provision of law.

(e) Continuing Requirement To Submit Allowances- The owner or operator of a covered facility that fails for any year to submit to the Secretary, by the deadline described in section 9913(a), 1 or more of the emission allowances due pursuant to that section shall be liable to compensate for the shortfall with a submission of excess allowances during the following calendar year (or such longer period as the Secretary may prescribe).

(f) Joint and Several Liability- All owners and operators of a covered facility shall be jointly and severally liable for the compliance obligation under section 9913 with respect to such facility and for any penalty imposed under subsection (a) with respect to any failure to comply with such obligation.

Subchapter B--Issuance of Allowances

Sec. 9911. Emission allowance account.

Sec. 9912. Auction.

Sec. 9913. Compliance obligation.

Sec. 9914. Use of foreign allowances.

Sec. 9915. Domestic offsets.

Sec. 9916. Overall limitation on use of offsets.

Sec. 9917. Authority to modify limitations.

SEC. 9911. EMISSION ALLOWANCE ACCOUNT.

(a) In General- There are hereby established a separate quantity of emission allowances for each of calendar years 2012 through 2050 as determined in accordance with the following table:

Calendar Year Number of Emission Allowances (in Millions)

2012	6,351
2013	6,193
2014	6,035
2015	5,877
2016	5,719
2017	5,561
2018	5,403
2019	5,245
2020	5,087
2021	4,929
2022	4,771
2023	4,613
2024	4,455
2025	4,297
2026	4,139
2027	3,981
2028	3,823
2029	3,666
2030	3,508
2031	3,350
2032	3,192
2033	3,034
2034	2,876
2035	2,718
2036	2,560
2037	2,402
2038	2,244
2039	2,086
2040	1,928
2041	1,770
2042	1,612
2043	1,454
2044	1,296
2045	1,138
2046	980
2047	822
2048	664
2049	506
2050	348

(b) Borrowing- If authorized by the Carbon Market Efficiency Board, the Secretary may increase the number of emission allowances

established for any year by making a corresponding reduction in the number of emission allowance available in one or more subsequent years. Any increase in the number of allowance established for any year under this subsection shall not exceed the amount of the increase authorized by the Carbon Market Efficiency Board for such year and the corresponding reduction with respect to such increase shall be made in accordance with such authorization but shall in no event be less than such increase.

` (c) Serial Numbers- The Secretary shall assign to each emission allowance established under subsection (a) a unique serial number that includes the calendar year for which that emission allowance was established (after taking into account any borrowing under subsection (b)).

` (d) Legal Status of Emission Allowances-

` (1) IN GENERAL- An emission allowance shall not be a property right.

` (2) TERMINATION OR LIMITATION- Nothing in this subtitle or any other provision of law limits the authority of the United States to terminate or limit an emission allowance.

` (3) OTHER PROVISIONS UNAFFECTED- Nothing in this subtitle relating to emission allowances shall affect the application of, or compliance with, any other provision of law to or by a covered facility.

` SEC. 9912. AUCTION.

` (a) In General- Except as otherwise provided in this subtitle, the Secretary shall conduct auctions of the allowances established under section 9911 not later than the close of the calendar year preceding the calendar year for which such allowance was established.

` (b) Auctions Not Less Frequently Than Annually- The Secretary shall conduct at least one auction under subsection (a) during every 12 month period.

` (c) Allowances Auctioned Not More Than 5 Years in Advance- The Secretary shall not auction an allowance established for any calendar year if such calendar year begins more than 5 years after the date of the auction.

` SEC. 9913. COMPLIANCE OBLIGATION.

` (a) In General- Not later than 90 days after the end of a calendar year, the owner or operator of a covered facility shall submit to the Secretary an emission allowance, a foreign allowance, or domestic offset allowance for each carbon dioxide equivalent attributable to such facility as calculated by the Administrator of the Environmental Protection Agency under section 402 of the Climate MATTERS Act of 2008.

` (b) Retirement of Allowances- Immediately upon receipt of an emission allowance under subsection (a), the Secretary shall retire the allowance.

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

` (d) Reductions in Compliance Obligations- If the Administrator of the Environmental Protection Agency identifies any additional reductions in carbon dioxide equivalents by the owner or operator of a covered facility under section 402 of the Climate MATTERS Act of 2008, the reductions shall reduce the owner or operator's compliance obligation under subsection (a).

` SEC. 9914. USE OF FOREIGN ALLOWANCES.

` (a) Foreign Allowances Under Cap and Trade Program- The owner or operator of a covered facility may satisfy not more than 15 percent of its compliance obligation under section 9913(a) by submitting foreign allowances distributed by a WTO participant pursuant to a commensurate cap and trade program (as defined in section 111(f)(1)(B) of the Climate MATTERS Act of 2008).

` (b) International Forest Allowances- The owner or operator of a covered facility may satisfy not more than 15 percent of the allowance submission requirement of the covered facility under section 9913(a) by submitting an allowance generated under an agreement to undertake international forest carbon activities entered into under section 115(c) of the Climate MATTERS Act of 2008.

` (c) Regulations- Not later than 2 years after the date of enactment of this subtitle, the Secretary shall promulgate regulations based upon recommendations from the Administrator of the Environmental Protection Agency, taking into consideration protocols adopted in accordance with the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992, approving the use under this subtitle of foreign allowances.

` (d) Facility Certification- The owner or operator of a covered facility who submits a foreign allowance under this subtitle shall certify that the allowance has not been retired from use in the registry of the applicable foreign country.

` (e) Definitions- Any term used in this section which is also used in title I of the Climate MATTERS Act of 2008 shall have the same meaning as when used in such title.

` SEC. 9915. DOMESTIC OFFSETS.

` (a) In General- In addition to any allowances established under section 9911, the Secretary shall establish domestic offset allowances which, except as otherwise provided in this section, shall be treated for purposes of this subtitle in the same manner as emission allowances established under section 9911.

` (b) Issuance- The Secretary shall issue domestic offset allowances corresponding to the reduction in carbon dioxide equivalents created by offset projects described in this subsection as determined by the Administrator of the Environmental Protection Agency and reported to the Secretary.

- ^ (c) Regulations- Not later than 18 months after the date of enactment of this title, the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Agriculture, shall promulgate regulations establishing the criteria for offset projects that qualify for domestic offset allowances in accordance with the requirements of this section.
- ^ (d) Requirements- The regulations described in subsection (a) shall, at minimum--
- ^ (1) authorize the issuance of domestic offset allowances generated through qualifying offset projects within the United States that achieve greenhouse gas emission reductions below, or increases in biological sequestration above, the project baseline;
 - ^ (2) ensure that such offset credits represent real, verifiable, additional, permanent, and enforceable reductions in greenhouse gas emissions or increases in biological sequestration;
 - ^ (3) establish procedures for project initiation and approval;
 - ^ (4) establish procedures for third-party verification of offset allowances; and
 - ^ (5) provide for the implementation of the requirements of this section.
- ^ (e) Periodic Review- Not later than 5 years after the date of enactment of this section, and periodically thereafter, the Administrator of the Environmental Protection Agency shall review and revise, as necessary, the regulations promulgated under this section.
- ^ (f) Eligible Project Types-
- ^ (1) IN GENERAL- The types of projects eligible to generate domestic offset allowances under this subtitle shall be limited to projects that--
 - ^ (A) reduce greenhouse gas emissions, from agricultural facilities in the United States, resulting from enteric fermentation or manure management and disposal;
 - ^ (B) increase biological sequestration of carbon through afforestation or reforestation of acreage in the United States that was not forested as of June 17, 2008;
 - ^ (C) reduce fugitive greenhouse gas emissions from petroleum and natural gas systems in the United States;
 - ^ (D) reduce greenhouse gas emissions from coal mines in the United States; or
 - ^ (E) reduce greenhouse gas emissions from the agricultural sector other than those projects specified in subparagraph (A), provided any such offset project types are approved under the National Academy of Sciences review described in subsection (h).
 - ^ (2) EXCLUSIONS- No domestic offset allowances shall be generated under this section by--
 - ^ (A) any reduction of greenhouse gas emissions that are covered by the compliance obligations set forth in section 9913; or
 - ^ (B) any activity receiving support under part 4 of subtitle B of title II of the Climate MATTERS Act of 2008.
- ^ (g) Limitation on Use- The owner or operator of a covered facility may satisfy not more than 10 percent if its compliance obligation under section 9913(a) by submitting domestic offset allowances. Initially, agricultural offset projects subject to National Academy of Sciences review under subsection (h) shall be limited to no more than 4 percent of this compliance obligation. This amount shall be increased or decreased as a result of the National Academy of Sciences review, but in no event, shall the owner or operator of a covered facility be entitled to satisfy greater than 5 percent of its compliance obligation through agricultural offset projects subject to National Academy of Sciences review.
- ^ (h) National Academy Review of Agricultural Projects-
- ^ (1) IN GENERAL- The Secretary shall enter into a contract with the National Academy of Sciences no later than 6 months after the date of the enactment of this subsection under which the Academy shall submit to Congress, the Secretary, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency a report which includes recommendations as to--
 - ^ (A) whether certain agricultural projects would, with a high degree of confidence, result in real, verifiable, additional, permanent, and enforceable reductions in greenhouse gas emissions or increases in biological sequestration,
 - ^ (B) the specific types of such projects and the specific protocols for ensuring the long-term environmental integrity of reductions in greenhouse gas emissions from such projects
 - ^ (C) whether the limitations on use of agricultural projects subject to National Academy of Sciences review should be increased or decreased based on the determinations in (A) and (B), in no event to exceed 5 percent of an owner or operator of a covered facility's total compliance obligation.
 - ^ (2) RULEMAKING ON POSITIVE RECOMMENDATIONS- If the report required under paragraph (1) finds with a high degree of confidence that certain agricultural projects would result in real, verifiable, additional, permanent, and enforceable reductions in greenhouse gas emissions or increases in biological sequestration, then the Secretary of Agriculture, in collaboration with the Administrator of the Environmental Protection Agency, shall promulgate regulations, based on the specific recommendations of the report, allowing those project types to be eligible to generate offset credits.

^ **SEC. 9916. OVERALL LIMITATION ON USE OF OFFSETS.**

^ The owner or operator of a covered facility may satisfy not more than a total of 25 percent of its compliance obligation under section 9913(a) by submitting a combination of foreign allowances under section 9914(a), international forest allowances under section 9914(b), and domestic offset allowances under section 9915.

^ SEC. 9917. AUTHORITY TO MODIFY LIMITATIONS.

^ The Secretary may increase or decrease the number of emission allowance established for each calendar year under section 9911 and the percentages in effect under section 9914(a) and section 9915(c) only to the extent authorized by the Carbon Market Efficiency Board consist with the requirements of subchapter D and section 9911(b), or as recommended by the Administrator of the Environmental Protection Agency pursuant to the National Academy of Sciences report consistent with the requirements of subchapter E.

^ Subchapter C--Trading

^ Sec. 9921. Allowance transfer system.

^ Sec. 9922. No termination of emission allowances.

^ SEC. 9921. ALLOWANCE TRANSFER SYSTEM.

^ (a) Establishment- The Secretary shall establish a system for issuing, recording, and tracking emission allowances, including the use of foreign allowances and domestic offset allowances.

^ (b) Recording Requirement- The transfer of an emission allowance shall not be effective until such date as a written certification of the transfer, signed by a responsible official of each party to the transfer, is received and recorded by the Secretary. An emission allowance shall not be taken into account under this subtitle with respect to any owner or operator of a covered facility unless such owner or operator is the recorded holder of such allowance.

^ (c) Holders Not Restricted- The privilege of purchasing, holding, and transferring emission allowances shall not be restricted to the owners and operators of covered facilities.

^ SEC. 9922. NO TERMINATION OF EMISSION ALLOWANCES.

^ An emission allowance may be submitted under section 9913 for the year for which it was established or any year thereafter. The passage of time shall not, by itself, diminish the compliance value of the emission allowance.

^ Subchapter D--Carbon Market Efficiency Board

^ Sec. 9931 Establishment of Carbon Market Efficiency Board.

^ Sec. 9932. Duties.

^ Sec. 9933. Powers.

^ SEC. 9931 ESTABLISHMENT OF CARBON MARKET EFFICIENCY BOARD.

^ (a) Establishment- There is established a board, to be known as the `Carbon Market Efficiency Board' (referred to in this subtitle as the `Board').

^ (b) Purposes- The purposes of the Board are--

^ (1) to promote the achievement of the purposes of the Climate MATTERS Act of 2008;

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

^ (3) to submit to the President and Congress, and publish on the Internet, the reports required under section 9933(c).

^ (c) Membership-

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

^ (2) REQUIREMENTS- In appointing members of the Board under paragraph (1), the President shall--

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

^ (B) appoint not more than 1 member from each such geographical region;

^ (C) ensure that not more than 4 members of the Board serving at any time are affiliated with the same political party; and

^ (D) ensure that at least 1 member is a scientist with expertise in climate change and the effects of climate change on the environment.

^ (3) COMPENSATION-

- ` (A) IN GENERAL- A member of the Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level II of the Executive Schedule under section 5313 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Board.
- ` (B) CHAIRPERSON- The Chairperson of the Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level I of the Executive Schedule under section 5312 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Board.
- ` (4) PROHIBITIONS-
 - ` (A) CONFLICTS OF INTEREST- An individual employed by, or holding any official relationship (including any shareholder) with, any entity engaged in the generation, transmission, distribution, or sale of energy, an individual who has any pecuniary interest in the generation, transmission, distribution, or sale of energy, or an individual who has a pecuniary interest in the implementation of Climate MATTERS Act of 2008, shall not be appointed to the Board under this subsection.
 - ` (B) NO OTHER EMPLOYMENT- A member of the Board shall not hold any other employment during the term of service of the member.
- ` (d) Term; Vacancies-
 - ` (1) TERM-
 - ` (A) IN GENERAL- The term of a member of the Board shall be 14 years, except that the members first appointed to the Board shall be appointed for terms in a manner that ensures that--
 - ` (i) the term of not more than 1 member shall expire during any 2-year period; and
 - ` (ii) no member serves a term of more than 14 years.
 - ` (B) OATH OF OFFICE- A member shall take the oath of office of the Board by not later than 15 days after the date on which the member is appointed under subsection (c)(1).
 - ` (C) REMOVAL-
 - ` (i) IN GENERAL- A member may be removed from the Board on determination of the President for cause.
 - ` (ii) NOTIFICATION- Not later than 30 days before removing a member from the Board for cause under clause (i), the President shall provide to Congress an advance notification of the determination by the President to remove the member.
 - ` (2) VACANCIES-
 - ` (A) IN GENERAL- A vacancy on the Board--
 - ` (i) shall not affect the powers of the Board; and
 - ` (ii) shall be filled in the same manner as the original appointment was made.
 - ` (B) SERVICE UNTIL NEW APPOINTMENT- A member of the Board the term of whom has expired or otherwise been terminated shall continue to serve until the date on which a replacement is appointed under subparagraph (A)(ii), if the President determines that service to be appropriate.
- ` (e) Chairperson and Vice-Chairperson- Of members of the Board, the President shall appoint--
 - ` (1) 1 member to serve as Chairperson of the Board for a term of 4 years; and
 - ` (2) 1 member to serve as Vice-Chairperson of the Board for a term of 4 years.
- ` (f) Meetings-
 - ` (1) INITIAL MEETING- The Board shall hold the initial meeting of the Board as soon as practicable after the date on which all members have been appointed to the Board under subsection (c)(1).
 - ` (2) PRESIDING OFFICER- A meeting of the Board shall be presided over by--
 - ` (A) the Chairperson;
 - ` (B) in any case in which the Chairperson is absent, the Vice-Chairperson; or
 - ` (C) in any case in which the Chairperson and Vice-Chairperson are absent, a chairperson pro tempore, to be elected by the members of the Board.
 - ` (3) QUORUM- Four members of the Board shall constitute a quorum for a meeting of the Board.
 - ` (4) OPEN MEETINGS- The Board shall be subject to section 552b of title 5, United States Code (commonly known as the `Government in the Sunshine Act`).
- ` (g) Records- The Board shall be subject to section 552 of title 5, United States Code (commonly known as the `Freedom of

Information Act').

` (h) Review by Government Accountability Office- Not later than January 1, 2013, and annually thereafter, the Comptroller General of the United States shall conduct a review of the efficacy of the Board in fulfilling the purposes and duties of the Board under this subchapter.

` SEC. 9932. DUTIES.

` (a) Information Gathering-

` (1) AUTHORITY- The Board shall collect and analyze relevant market information to promote a full understanding of the dynamics of the emission allowance market established under this subtitle.

` (2) INFORMATION- The Board shall gather such information as the Board determines to be appropriate regarding the status of the market, including information relating to--

` (A) emission allowance allocation and availability;

` (B) the price of emission allowances;

` (C) macro- and micro-economic effects of unexpected substantial increases and decreases in emission allowance prices, or shifts in the emission allowance market, should those increases, decreases, or shifts occur;

` (D) economic effect thresholds that could warrant implementation of cost relief measures described in section 9933;

` (E) in the event any cost relief measures described in section 9933(a) are taken, the effects of those measures on the market;

` (F) maximum levels of cost relief measures that are necessary to achieve avoidance of economic harm and preserve achievement of the purposes of the Climate MATTERS Act of 2008; and

` (G) the success of the market in promoting achievement of the purposes of the Climate MATTERS Act of 2008.

` (b) Study-

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

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

` (c) Reports- The Board shall submit to the Secretary and Congress quarterly reports--

` (1) describing the status of the emission allowance market established under this subtitle, the economic effects of the market, regional, industrial, and consumer responses to the market, energy investment responses to the market, the effects on the market of any fraud on, or manipulation of, the market that the Board has identified, any corrective measures that should be carried out to alleviate identified problems including excessive costs of the market, and plans to compensate for those measures;

` (2) including a description of--

` (A) any cost relief measures authorized by the Board under section 9933,

` (B) the actions taken by the Secretary pursuant to such authorizations, and

` (C) the effect of such actions on the long-term functioning of the emission allowance market taking into account any reductions in allowance established for future years as a result of such actions, and

` (3) that are prepared independently by the Board, and not in partnership with Federal agencies.

` SEC. 9933. POWERS.

` (a) Cost Relief Measures-

` (1) IN GENERAL- If the Board determines that the emission allowance market established under this subtitle poses a substantial harm to the economy of the United States, the Board may, in order to ensure functioning, stable, and efficient markets for emission allowances, authorize the Secretary to carry out one or more of the following cost relief measures:

` (A) Increase the percentage limitation applicable under either or both section 9914(a)(1) or (b) on the foreign allowances that the owner or operator of any covered facility may use for any calendar year to satisfy the allowance submission requirement of the covered facility under section 9913(a).

` (B) Increase the percentage limitation applicable under section 9915(c) on the domestic offset allowances that the owner or operator of any covered facility may use for any calendar year to satisfy the allowance submission requirement of the covered facility under section 9913(a).

` (C) Increase the quantity of emission allowances established for any calendar year and make corresponding reductions in the emission allowances established for any subsequent calendar years.

` (2) GENERAL REQUIREMENTS OF AUTHORIZATION- On determination by the Board to authorize a cost relief measure pursuant to paragraph (1), the Board shall--

` (A) authorize the cost relief measure to be used only during the applicable allocation year; and

` (B) authorize the measure only as needed to avoid substantial economic harm during the applicable allocation year.

` (3) LIMITATION ON AUTHORIZATION TO INCREASE PERCENTAGE OF PERMISSIBLE ALLOWANCES- Any authorization under subparagraph (A), (B), or (C) of paragraph (1) shall specify the maximum number of percentage points that the Secretary is authorized to increase the percentage in effect under section 9914(a)(1) or (b) or 9915(c), respectively.

` (4) LIMITATIONS ON AUTHORIZATION TO INCREASE CURRENT YEAR EMISSION ALLOWANCES-

` (A) IN GENERAL- Any authorization under paragraph (1)(D) shall specify the maximum increase in emission allowances that the Secretary is authorized to make for the specified calendar year and the subsequent calendar years in which the Secretary is authorized to make corresponding reductions.

` (B) MAXIMUM INCREASE- The maximum authorized increase in emission allowances under subparagraph (A) for any calendar year shall not exceed 5 percent of the quantity of emission allowances established for such calendar year without regard to such increase.

` (C) MAXIMUM TERM FOR REDUCTIONS- The corresponding reductions authorized under subparagraph (A) shall not take into account any calendar years other than the 20 calendar years immediately following the calendar year of the authorized increase.

` (c) Limitations- Nothing in this section gives the Board the authority--

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

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

` (3) to increase the total quantity of emission allowances issued under this subtitle for the period of calendar years 2012 through 2050.

` Subchapter E--National Academy of Sciences Review

` Sec. 9941. National Academy of Sciences review.

` SEC. 9941. NATIONAL ACADEMY OF SCIENCES REVIEW.

` (a) In General- Not later than 1 year after the date of enactment of this Act, the Secretary shall offer to enter into a contract with the National Academy of Sciences under which the Academy shall, not later than January 1, 2012, and every 3 years thereafter, submit to Congress, the Carbon Market Efficiency Board, the Secretary, and the Administrator of the Environmental Protection Agency a report that includes an analysis of--

` (1) the latest scientific information and data relevant to global climate change; and

` (2) the performance of Climate MATTERS Act of 2008 and the amendments made by such Act and other policies in reducing greenhouse gas emissions and mitigating the adverse impacts of global climate change.

` (b) Latest Scientific Information- The analysis required under subsection (a)(1) shall--

` (1) address existing reports, including the most recent assessment report of the Intergovernmental Panel on Climate Change; and

` (2) include a description of--

` (A) trends in and projections for total United States greenhouse gas emissions;

` (B) trends in and projections for total worldwide greenhouse gas emissions;

` (C) current and projected future atmospheric concentrations of greenhouse gases;

` (D) current and projected future global average temperature, including an analysis of whether an increase of global average temperature in excess of 3.6 degrees Fahrenheit (2 degrees Celsius) above the preindustrial average has occurred or is more likely than not to occur in the foreseeable future as a result of anthropogenic climate change;

` (E) current and projected future adverse impacts of global climate change on human populations, wildlife, and natural resources; and

` (F) trends in and projections for the health of the oceans and ocean ecosystems, including predicted changes in ocean acidity, temperatures, the extent of coral reefs, and other indicators of ocean ecosystem health, resulting from anthropogenic carbon dioxide and climate change.

` (c) Rulemaking on Recommendations- Based on the report under subsection (a), the Administrator of the Environmental Protection Agency shall submit a recommendation to the Secretary for regulatory action, and if such regulatory action is within the authority of such Secretary, the Secretary shall, not later than 2 years after the submission of such recommendation, finalize a rulemaking (after notice and comment)--

` (1) to carry out such regulatory action; or

` (2) to explain the reasons for declining to act.

` Subchapter F--Industry Transition Assistance

` Sec. 9951. General allocation and distribution.

` Sec. 9952. Distributing emission allowances to owners and operators of fossil fuel-fired electric power generating facilities.

` Sec. 9953. Distributing emission allowances to owners and operators of energy intensive manufacturing facilities.

` SEC. 9951. GENERAL ALLOCATION AND DISTRIBUTION.

` (a) General Allocation- Not later than April 1, 2011, and annually thereafter through December 31, 2019, the Secretary shall allocate percentages of the emission allowance account established for the following calendar year as follows:

 `Calendar year Owners and operators of fossil fuel-fired electric power generating facilities Owners and operators of

2012 thru 2015 5 percent

2016 4 percent

2017 3 percent

2018 2 percent

2019 1 percent

` (b) General Distribution- Not later than 1 year after the date of enactment of this subtitle, the Secretary shall establish a system for distributing to entities identified under subsection (a) the emission allowances allocated under that subsection.

` SEC. 9952. DISTRIBUTING EMISSION ALLOWANCES TO OWNERS AND OPERATORS OF FOSSIL FUEL-FIRED ELECTRIC POWER GENERATING FACILITIES.

` (a) In General- As part of the system established under section 9951(b), the Secretary shall, for each calendar year, distribute to fossil fuel-fired electric power generating facilities (including such facilities owned or operated by rural electric cooperatives) that were operating during the calendar year preceding the year in which this subtitle was enacted the emission allowances represented by the percentages described in the table contained in section 9951(a) for owners and operators of fossil fuel-fired electric power generating facilities.

` (b) Calculation of Allowances- The quantity of emission allowances distributed to a fossil fuel-fired electric power generating facility under subsection (a) shall be equal to the product obtained by multiplying--

` (1) the quantity of emission allowances available for distribution under subsection (a); and

` (2) the quotient obtained by dividing--

` (A) the annual average quantity of carbon dioxide equivalents emitted by the facility during the 3 calendar years preceding the date of enactment of this subtitle; by

` (B) the annual average of the aggregate quantity of carbon dioxide equivalents emitted by all fossil fuel-fired electric power generating facilities during those 3 calendar years.

` SEC. 9953. DISTRIBUTING EMISSION ALLOWANCES TO OWNERS AND OPERATORS OF ENERGY INTENSIVE MANUFACTURING FACILITIES.

` (a) Definitions- In this section:

` (1) CURRENTLY OPERATING FACILITY- The term `currently operating facility' means an eligible manufacturing facility that had significant operations during the calendar year preceding the calendar year for which emission allowances are being distributed under this section.

` (2) ELIGIBLE MANUFACTURING FACILITY-

` (A) IN GENERAL- The term `eligible manufacturing facility' means a manufacturing facility located in the United States that principally manufactures iron, steel, aluminum, pulp, paper, cement, chemicals, or such other products as the

Secretary, after consultation with the Administrator of the Environmental Protection Agency, may determine are likely to be significantly disadvantaged in competitive international markets as a result of indirect costs of the program established under this subtitle.

`(B) EXCLUSION- The term `eligible manufacturing facility' does not include a facility eligible to receive emission allowances under section 9952.

`(3) INDIRECT CARBON DIOXIDE EMISSIONS- The term `indirect carbon dioxide emissions' means the product obtained by multiplying (as determined by the Administrator of the Environmental Protection Agency)--

`(A) the quantity of electricity consumption at an eligible manufacturing facility; and

`(B) the rate of carbon dioxide emission per kilowatt-hour output for the region in which the manufacturer is located.

`(4) NEW ENTRANT MANUFACTURING FACILITY- The term `new entrant manufacturing facility', with respect to a calendar year, means an eligible manufacturing facility that began operation during or after the calendar year for which emission allowances are being distributed under this section.

`(b) Total Allocation for Currently Operating Facilities- As part of the system established under section 9951(b), the Secretary shall, for each calendar year, distribute 96 percent of the total quantity of emission allowances available for allocation to energy-intensive manufacturing under section 9951(a) to currently operating facilities.

`(c) Total Allocation for Currently Operating Facilities in Each Category of Manufacturing Facilities- The quantity of emission allowances distributed by the Secretary for a calendar year to facilities in each category of currently operating facilities shall be equal to the product obtained by multiplying--

`(1) the total quantity of emission allowances available for allocation under subsection (b); and

`(2) the ratio that (during the calendar year preceding the calendar year for which emission allowances are being distributed under this section)--

`(A) the sum of the direct and indirect carbon dioxide emissions by currently operating facilities in the category; bears to

`(B) the sum of the direct and indirect carbon dioxide emissions by all currently operating facilities.

`(d) Individual Allocations to Currently Operating Facilities- The quantity of emission allowances distributed by the Secretary for a calendar year to a currently operating facility shall be a quantity equal to the product obtained by multiplying--

`(1) the total quantity of emission allowances available for allocation to currently-operating facilities in the appropriate category, as determined under subsection (c); and

`(2) the ratio that (during the 3 calendar years preceding the year for which the allocation rule is promulgated for the allocation period)--

`(A) the average number of production employees employed at the facility; bears to

`(B) the average number of production employees employed at all existing eligible manufacturing facilities in the appropriate category.

`(e) New Entrant Manufacturing Facilities-

`(1) IN GENERAL- As part of the system established under section 9951(b), the Secretary shall, for each calendar year, distribute 4 percent of the total quantity of emission allowances available for allocation to carbon intensive manufacturing under section 9951(a) to new entrant manufacturing facilities.

`(2) INDIVIDUAL ALLOCATIONS- The quantity of emission allowances distributed by the Secretary for a calendar year to a new entrant manufacturing facility shall be proportional to the product obtained by multiplying--

`(A) the average number of production employees employed at the new entrant manufacturing facility during the prior calendar year; and

`(B) the rate (in emission allowances per production employee) at which emission allowances were allocated to currently operating facilities in the appropriate category for the calendar year, as determined under subsection (d).

` Subchapter G--Definitions

` Sec. 9961. Definitions.

` SEC. 9961. DEFINITIONS.

` For purposes of this subtitle--

`(1) CARBON DIOXIDE EQUIVALENT- The term `carbon dioxide equivalent' means, for each greenhouse gas, the quantity of the greenhouse gas that the Administrator of the Environmental Protection Agency, determines makes the same contribution to global warming as 1 metric ton of carbon dioxide.

`(2) COVERED FACILITY- The term `covered facility' means--

` (a) Creation of Trust Fund- There is established in the Treasury of the United States a trust fund to be known as the ` Deficit Reduction Trust Fund', consisting of such amounts as may be appropriated or credited to the Deficit Reduction Trust Fund as provided in this section or section 9602(b).

` (b) Transfers to Deficit Reduction Trust Fund- There are hereby appropriated to the Deficit Reduction Trust Fund amounts equivalent to 15 percent of--

- ` (1) the amounts received pursuant to auction of allowances under section 9912, and
- ` (2) the amounts received as penalties under section 9901.

` (c) Expenditures- Amounts in the Deficit Reduction Trust Fund shall be available as provided in appropriation Acts only for the purpose of reducing the Federal debt.

` SEC. 9512. CITIZEN PROTECTION TRUST FUND.

` (a) Creation of Trust Fund- There is established in the Treasury of the United States a trust fund to be known as the ` Citizen Protection Trust Fund', consisting of such amounts as may be appropriated or credited to the Citizen Protection Trust Fund as provided in this section or section 9602(b).

` (b) Transfers to Citizen Protection Trust Fund- There are hereby appropriated to the Citizen Protection Trust Fund amounts equivalent to 85 percent of--

- ` (1) the amounts received pursuant to auction of allowances under section 9912, and
- ` (2) the amounts received as penalties under section 9901.

` (c) Creation of Accounts- There is established in the Citizen Protection Trust Fund each of the separate accounts referred to in the table contained in subsection (d)(1). Each such account shall consist of such amounts as may be transferred or credited to such account.

` (d) Transfers to Accounts-

` (1) IN GENERAL- Any amount appropriated or credited to the Citizen Protection Trust Fund shall be transferred by the Secretary to the accounts in such fund in accordance with the ratio (expressed as percentages) contained in the following table:

`In the case of the:	The following percentage of such amount:

Consumer Assistance Account	54 percent
Investment in Natural Resource Adaptation Account	7 percent
Early Action Account	1 percent
State and Tribal Action Account	2.7 percent
International Adaptation Account	3.5 percent
International Technology Assistance Account	3.5 percent
Transition Assistance for Workers Account	4 percent
Domestic Agriculture and Forestry Account	3 percent
Education Account	0.4 percent
International Forestry Account	4.4 percent
Energy Efficiency Account	7.5 percent
Transportation Alternatives Account	2 percent
Green Energy Research Account	7 percent

` (2) PHASEOUT OF TRANSFERS TO EARLY ACTION ACCOUNT-

` (A) IN GENERAL- In the case of any amount appropriated or credited after 2012--

- ` (i) the percentage specified in the table contained in paragraph (1) with respect to the Early Action Account, shall be decreased by the applicable number of percentage points, and
- ` (ii) such percentage of such amount shall be transferred to the Consumer Assistance Account and shall be available, without further appropriation or fiscal year limitation, only for the healthy families fund described in section 313 of the

Climate MATTERS Act of 2008.

` (B) APPLICABLE NUMBER OF PERCENTAGE POINTS- With respect to any amount appropriated or credited in any calendar year, the applicable number of percentage points is the number determined in accordance with the following table:

 `In the case of calendar year: The applicable number of percentage points is:

2013	0.33
2014	0.66
2015 and thereafter	1

` (e) Expenditures From Citizen Protection Trust Fund-

` (1) CONSUMER ASSISTANCE ACCOUNT- Amounts in the Consumer Assistance Account shall be available, without further appropriation or fiscal year limitation, only for carrying out the programs established under part 1 of subtitle B of title III of the Climate MATTERS Act of 2008.

` (2) INVESTMENT IN NATURAL RESOURCE ADAPTATION ACCOUNT- Amounts in the Investment in Natural Resource Adaptation Account shall be available, without further appropriation or fiscal year limitation, only for carrying out the program established under part 2 of subtitle B of title III of the Climate MATTERS Act of 2008.

` (3) EARLY ACTION ACCOUNT- Amounts in the Early Action Account shall be available, without further appropriation or fiscal year limitation, only for carrying out the program established under part 3 of subtitle B of title III of the Climate MATTERS Act of 2008.

` (4) STATE AND TRIBAL ACTION ACCOUNT- Amounts in the State and Tribal Action Account shall be available, without further appropriation or fiscal year limitation, only for carrying out the program established under part 4 of subtitle B of title III of the Climate MATTERS Act of 2008. Funds received under this section shall supplement existing programs and not be in place thereof.

` (5) INTERNATIONAL ADAPTATION ACCOUNT- Amounts in the International Adaptation Account shall be available, without further appropriation or fiscal year limitation, only to the Administrator of USAID to carry out a Climate Change Adaptation and Response Program for the most vulnerable developing countries to cope with climate change impacts while encouraging engagement of local communities.

` (6) INTERNATIONAL TECHNOLOGY ASSISTANCE ACCOUNT-

` (A) Amounts in the International Technology Assistance Account shall be available, without further appropriation or fiscal year limitation, only to the Secretary of State to provide technology assistance to qualified developing nations to provide incremental financial support to accelerate the deployment of low carbon technologies.

` (B) For purposes of this paragraph--

` (i) The term 'low carbon technology' means technologies to produce energy from renewable energy, to reduce energy demand through energy efficiency, or to capture and store carbon emissions from fossil fuels.

` (ii) Qualified developing countries are those the Secretary of State determines will take nationally appropriate actions that will result in significant, verifiable reduction of greenhouse gas emissions.

` (iii) Incremental financial support means providing partial funding for deployment of technologies that would not be deployed within a reasonable time without the added support.

` (7) TRANSITION ASSISTANCE FOR WORKERS ACCOUNT- Amounts in the Transition Assistance for Workers Account shall be available in equal amounts, without further appropriation or fiscal year limitation, only--

` (A) to the Secretary of Labor to provide transition assistance to dislocated workers and communities, including grants to employers, employer associations, and representatives of employees, adjustment assistance, employment services to dislocated workers, income-maintenance and needs-related payments to dislocated workers, and grants to State and local governments to assist communities in attracting new employers or providing essential local government services, and

` (B) to the Secretary of Labor to supplement existing funding for the Energy Efficiency and Renewable Energy Worker Training Program established under section 171(e) of the Workforce Investment Act of 1998.

` (8) DOMESTIC AGRICULTURE AND FORESTRY ACCOUNT- Amounts in the Domestic Agriculture and Forestry Account shall be available, without further appropriation or fiscal year limitation, only for carrying out the program established under part 5 of subtitle B of title III of the Climate MATTERS Act of 2008.

` (9) INTERNATIONAL FORESTRY ACCOUNT- Amounts in the International Forestry Account shall be available, without further appropriation or fiscal year limitation, only for carrying out the program established under part 6 of subtitle B of title III of the Climate MATTERS Act of 2008.

` (10) ENERGY EFFICIENCY ACCOUNT- Amounts in the Energy Efficiency Account shall be available, without further appropriation or fiscal year limitation, only for carrying out the program established under part 7 of subtitle B of title III of the Climate MATTERS Act of 2008.

` (11) EDUCATION ACCOUNT- Amounts in the Education Account shall be available, without further appropriation or fiscal year limitation, only for environmental education as follows:

` (A) 33.3 percent to the Environmental Protection Agency;

` (B) 33.3 percent to the Department of Commerce for initiatives under the National Oceanic and Atmospheric Administration; and

` (C) 33.3 percent to the Secretary of Education.

` (12) TRANSPORTATION ALTERNATIVES ACCOUNT- Amounts in the Transportation Alternatives Account shall be available, without further appropriation or fiscal year limitation, only for carrying out the program established under part 8 of subtitle B of title III of the Climate MATTERS Act of 2008.

` (13) GREEN ENERGY RESEARCH ACCOUNT- Amounts in the Green Energy Research Account shall be available, without further appropriation or fiscal year limitation, only as follows:

` (A) 50 percent for tax credits for basic renewable energy technology research.

` (B) 25 percent to the National Science Foundation for basic renewable energy technology research.

` (C) 25 percent to the Department of Energy for basic renewable energy technology research.

For purposes of this paragraph, the term `basic renewable energy technology research' means any original investigation conducted in the United States for the advancement of scientific knowledge in renewable energy technology not having a specific commercial objective.

` (14) CARBON MARKET EFFICIENCY BOARD- Amounts in the Citizen Protection Trust Fund shall be available, as provided by appropriation Acts, to the Carbon Market Efficiency Board to pay the expenses of such Board and salaries of members and employees of such Board. Any amounts made available under this paragraph shall be treated for purposes of paragraph (1) as amounts not appropriated or credited to the Citizen Protection Trust Fund.

` (f) Limitation on Transfers to the Citizen Protection Trust Fund- No amount may be appropriated to the Citizen Protection Trust Fund on and after the date of any expenditure from the Citizen Protection Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to--

` (1) any provision of law which is not contained or referenced in this title or in a revenue Act, and

` (2) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.'

(b) Clerical Amendment- The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end the following new items:

` Sec. 9511. Deficit reduction trust fund.

` Sec. 9512. Citizen protection trust fund.'

Subtitle B--Citizen Protection Programs

SEC. 310. DEFINITIONS.

Except as otherwise provided in this subtitle, any term used in this subtitle which is also used in subtitle L of the Internal Revenue Code of 1986 shall have the meaning given such term for purposes of such subtitle L.

PART 1--CONSUMER ASSISTANCE

SEC. 311. ALLOCATION OF ACCOUNT FUNDS.

The amounts made available annually to carry out this part shall be allocated as follows:

(1) 16 percent to carry out the climate change rebate program established under section 312,

(2) 18 percent for tax relief for low- and moderate-income households to mitigate any increased costs due to the regulation of greenhouse gases as provided by this Act (and the amendments made by this Act), and

(3) 66 percent for the health families fund described in section 313.

SEC. 312. CLIMATE CHANGE REBATE PROGRAM.

(a) In General- The Secretary shall formulate and administer the Climate Change Rebate Program consistent with the provisions of this section. At the request of the State agency, eligible low-income households within the State shall be provided an opportunity to receive compensation, through the issuance of a monthly rebate, for the loss in purchasing power resulting from this Act.

(b) Eligibility- Participation in the Climate Change Rebate Program shall be limited to households that--

(1) the State agency determines to be participating in the Food Stamp Program (7 U.S.C. 2011 et seq.) or the Food Distribution Program on Indian Reservations (7 U.S.C. 2013(b));

(2) meet the gross income standard described in section 5(c)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(2)), including households that include an elderly or disabled member, and the financial resources limit in effect in the State for such households under the Food Stamp Act of 1977 (7 U.S.C. 2014(g));

(3) consist of a single individual or a married couple who receive the subsidy described in section 1860D-14 of the Social Security Act (42 U.S.C. 1395w-114); or

(4) consist of a single individual or a married couple who participate in the program under section XVIII of the Social Security Act and who meet the income requirements described in section 1860D-14(a)(1) or (a)(2) and the resource requirements described in Section 1860D-14(a)(3)(D) and (a)(3)(E).

(5) LIMITATION- The Secretary shall establish procedures to ensure that--

(A) individuals in households that qualify for the rebate under paragraph (2) or paragraph (4) and that do not participate in the Food Stamp Program or Medicare are U.S. citizens, U.S. nationals, or lawfully residing immigrants; and

(B) households do not receive more than one rebate per month.

(c) Rebate Calculation-

(1) IN GENERAL- The climate change rebate amount shall be the average annual reduction in purchasing power for low-income households of a given size that results from the regulation of greenhouse gas emissions under this Act and any other provision of law. The Energy Information Administration, in consultation with other appropriate federal agencies, shall calculate the climate change rebate amount by August 31 of each year for the following calendar year using the most recent, reliable data available, and report such amount to the Secretary.

(2) REBATE CALCULATION-

(A) DISTRIBUTION- For each calendar year, the Energy Information Administration shall determine and the Secretary shall distribute amounts available under this section among U.S. households, based on--

(i) households' share of total consumption by all households;

(ii) the carbon intensity (and covered-emissions intensity) of households' consumption; and

(iii) the share of households' consumption that is not financed by federal benefits subject to a cost of living adjustment.

(B) CLIMATE CHANGE REBATE- The climate change rebate amount shall be equal to the arithmetic mean value of the amount allocated under paragraph (1) to households of a specified household size in the bottom income quintile.

(C) INCOME QUINTILES- Income quintiles shall be determined by ranking households according to income adjusted for household size, and shall be constructed so that each quintile contains an equal number of people.

(D) HOUSEHOLD SIZE- The climate change rebate amount shall be calculated for each of the household sizes specified in paragraph (d)(2).

(d) Monthly Rebate Amount-

(1) MAXIMUM MONTHLY REBATE- The maximum monthly rebate under this subsection for each household size shall be equal to the annual climate change rebate amount calculated under subsection (c) for that household size, divided by 12 and rounded to the nearest whole dollar amount.

(2) HOUSEHOLD SIZES- Households shall receive a rebate based on the number of individuals in the household, except that households of five or more members shall receive the same rebate amount based on calculations under subsection (c) for households with five or more members.

(3) GROSS INCOME-

(A) Eligible households shall receive a monthly rebate based on the gross income of the household.

(B) A households with a gross income that is less than or equal to 50 percent of the poverty line shall receive the maximum monthly rebate.

(C) A household with a gross income that is greater than 50 percent of the poverty line and less than or equal to 130 percent of the poverty line shall receive monthly rebates in amounts established in accordance with such schedule as shall be determined by the Secretary, provided that--

(i) for each household size, the schedule provides that the amount of the monthly rebate shall be reduced for each dollar that gross income of a household exceeds 50 percent of the poverty line (referred to in this clause as the 'phase down rate');

(ii) the phase down rate is equal to the quotient obtained by dividing--

(I) the maximum monthly rebate amount; by

(II) the difference between 130 percent of the poverty line and 50 percent of the poverty line calculated on a monthly basis for each household size;

(iii) the Secretary establishes a methodology for use in establishing the phase down rate for households of 5 or more individuals.

(D) A household with a gross income that is greater than 130 percent of the poverty line shall not be eligible for a monthly rebate under this paragraph.

(4) SPECIAL RULE FOR CERTAIN HOUSEHOLDS- Notwithstanding paragraph (3), households with 1 or 2 members that include at least one elderly or disabled member shall receive the maximum monthly rebate for the size of their household.

(e) Delivery Mechanism-

(1) Subject to standards and an implementation schedule set by the Secretary, the state agency shall provide the rebate in monthly installments via the State's Electronic Benefit Transfer System or direct deposit into the eligible households designated bank account.

(2) Such standards shall include--

(A) Defining the required level of recipient protection regarding privacy, ease of use and access to the rebate, including the prohibition of fees charged to recipients for withdrawals; and

(B) Operating standards that provide for interoperability between states and law enforcement monitoring.

(f) Administration-

(1) IN GENERAL- The State agency of each participating State shall assume responsibility for the certification of applicant households and for the issuance of rebates and the control and accountability thereof.

(2) ADMINISTRATIVE COSTS-

(A) Subject to standards established by the Secretary, the Secretary is authorized to reimburse each State agency for a portion, as described in (B) and (C) of the administrative costs involved in each agency's operation of the Climate Change Rebate Program.

(B) For the first three years of the Climate Change Rebate Program, the State agency will be reimbursed for:

(i) 75 percent of the administrative costs of determining eligibility for and delivering the climate rebate; and

(ii) 90 percent of any automated data processing improvements or Electronic Benefit Transfer contract amendments necessary to provide the Climate Change Rebate.

(C) Beginning in the fourth year of this program, states will be reimbursed for 50 percent of all administrative costs of the rebate.

(g) Treatment- The value of the rebate provided under this Act shall not be considered income or resources for any purpose under any Federal, State, or local laws, including, but not limited to, laws relating to an income tax, public assistance programs (such as health care, cash aid, child care, nutrition programs, and housing assistance) and no participating State or political subdivision thereof shall decrease any assistance otherwise provided an individual or individuals because of the receipt of benefits under this Act.

(h) Definitions-

(1) ELDERLY OR DISABLED MEMBER- The term `elderly or disabled member' includes individuals who meet the definition of the term in section 3 of the Food Stamp Act (7 U.S.C. 2012) or receive benefits under Section 1860(D)-14 of the Social Security Act (42 U.S.C. 1395w-114).

(2) ELECTRONIC BENEFIT TRANSFER- The term `electronic benefit transfer' means a system by which household benefits defined under subsection (d) are issued from and stored in a central databank via electronic benefit transfer cards.

(3) GROSS INCOME- The term `gross income' means the gross income of a household that is determined in accordance with standards and procedures established under section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014).

(4) HOUSEHOLD-

(A) IN GENERAL- The term `household' means an individual who lives alone or a group of individuals who live together.

(B) EXCEPTIONS- Notwithstanding subparagraph (A)--

(i) an individual or a group of individuals who are a household under the Food Stamp Act of 1977 (7 U.S.C. 2012) shall be considered a household;

(ii) a single individual or married couple that receive benefits under section 1860D-14 of the Social Security Act (42 U.S.C. 1395w-114) shall be considered a household;

(iii) notwithstanding subsection (b)(5)(b), the Secretary shall establish rules for providing the Climate Change Rebate

in an equitable and administratively simple manner to `mixed households' where the group of individuals who live together includes a combination of members described in clause (i) and clause (ii), or includes additional members not described in clause (i) or clause (ii).

(5) **POVERTY LINE**- The term `poverty line' has the meaning given the term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section.

(6) **SECRETARY**- The term `Secretary' means the Secretary of the Treasury, or his designee.

(7) **STATE**- The term `State' means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands.

(8) **STATE AGENCY**- The term `State agency' means an agency of State government, including the local offices thereof, that has responsibility for administration of the 1 or more federally aided public assistance programs within the State, and in those States where such assistance programs are operated on a decentralized basis, the term shall include the counterpart local agencies administering such programs.

SEC. 313. HEALTHY FAMILIES FUND.

(a) **In General**- Amounts made available for the healthy families fund shall be used only to carry out a program which is established by subsequent legislation to assist households with the costs of obtaining and maintaining healthcare coverage and which is consistent with the principles described in subsection (b).

(b) **Principles of Healthy Families Fund**- A program shall be treated as described in this section only if such program is consistent with the following principles:

- (1) Advances comprehensive, high quality, affordable healthcare coverage for all.
- (2) Ensures premiums, deductibles, and out-of-pocket costs are affordable relative to family income, with protection from catastrophic medical costs and bankruptcy.
- (3) Recognizes the shared responsibility of Federal and State governments, households, and employers to contribute toward fair and adequate financing of health insurance for all.
- (4) Promotes stability and equity in healthcare coverage.
- (5) Places a high value on effective, evidence-based care, and reduces over-utilization, duplication, and waste.

PART 2--INVESTMENT IN NATURAL RESOURCE ADAPTATION

SEC. 321. DEFINITIONS.

In this part:

(1) **ECOLOGICAL PROCESS**-

(A) **IN GENERAL**- The term `ecological process' means a biological, chemical, or physical interaction between the biotic and abiotic components of an ecosystem.

(B) **INCLUSIONS**- The term `ecological process' includes--

- (i) nutrient cycling;
- (ii) pollination;
- (iii) predator-prey relationships;
- (iv) soil formation;
- (v) gene flow;
- (vi) larval dispersal and settlement;
- (vii) hydrological cycling;
- (viii) decomposition; and
- (ix) disturbance regimes, such as fire and flooding.

(2) **FISH AND WILDLIFE**- The term `fish and wildlife' means--

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

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

(3) **HABITAT**- The term `habitat' means the physical, chemical, and biological properties that are used by wildlife (including aquatic and terrestrial plant communities) for growth, reproduction, and survival, food, water, cover, and space, on a tract of

land, in a body of water, or in an area or region.

(4) INDIAN TRIBE- The term `Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) PLANT- The term `plant' means any species of wild flora.

(6) STATE- The term `State' means--

- (A) a State;
- (B) the District of Columbia;
- (C) the Commonwealth of Puerto Rico; and
- (D) any other territory or possession of the United States.

SEC. 322. ADAPTATION FUND.

(a) Availability of Amounts- All amounts deposited in the Investment in Natural Resource Adaptation Account established by section 9512 of the Internal Revenue Code of 1986 shall be available to carry out activities (including research and education activities) that assist fish and wildlife, fish and wildlife habitat, plants, and associated ecological processes in becoming more resilient, adapting to, and surviving the impacts of climate change and ocean acidification (referred to in this section as `adaptation activities') pursuant to this section.

(b) Department of the Interior- Of the amounts made available annually to carry out this subsection--

(1) 35 percent shall be allocated to the Secretary of the Interior, and subsequently made available to States 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)) to carry out adaptation activities in accordance with comprehensive State adaptation strategies, as described in subsection (j);

(2) 19 percent shall be allocated to the Secretary of the Interior for use in funding adaptation activities carried out--

- (A) under endangered species, migratory bird, and other fish and wildlife programs administered by the United States Fish and Wildlife Service;
- (B) 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
- (C) within Federal water managed by the Bureau of Reclamation;

(3) 5 percent shall be allocated to the Secretary of the Interior for adaptation activities carried out under cooperative grant programs, including--

- (A) the cooperative endangered species conservation fund authorized under section 6(i) of the Endangered Species Act of 1973 (16 U.S.C. 1535(i));
- (B) programs under the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.);
- (C) 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. 4246);
- (D) the Neotropical Migratory Bird Conservation Fund established by section 9(a) of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6108(a));
- (E) the Coastal Program of the United States Fish and Wildlife Service;
- (F) the National Fish Habitat Action Plan;
- (G) the Partners for Fish and Wildlife Program;
- (H) the Landowner Incentive Program;
- (I) the Wildlife Without Borders Program of the United States Fish and Wildlife Service; and
- (J) the Park Flight Migratory Bird Program of the National Park Service; and

(4) 1 percent shall be allocated to the Secretary of the Interior and subsequently made available to Indian tribes to carry out adaptation activities through the tribal wildlife grants program of the United States Fish and Wildlife Service.

(c) Land and Water Conservation Fund-

(1) DEPOSITS-

- (A) IN GENERAL- Of the amounts made available for each fiscal year to carry out this subsection, 10 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. 4601-5).

(B) Deposits to the Land and Water Conservation Fund under this subsection shall be available without further appropriation or fiscal year limitation and shall be supplemental to authorizations provided under section 3 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460I-6) which shall remain available for non-adaptation needs.

(2) ALLOCATIONS- Of the amounts deposited under this subsection into the Land and Water Conservation Fund--

(A) 1/6 shall be allocated 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. 460I-8)--

(i) to States in accordance with comprehensive wildlife conservation strategies and Indian tribes;

(ii) notwithstanding section 5 of that Act (16 U.S.C. 460I-7); and

(iii) in addition to grants provided pursuant to--

(I) annual appropriations Acts;

(II) the Energy Policy Act of 2005 (42 U.S.C. 15801 et seq.); or

(III) any other authorization for nonadaptation needs;

(B) 1/3 shall be allocated 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. 460I-9);

(C) 1/6 shall be allocated 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

(D) 1/3 shall be allocated 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. 460I-9).

(3) EXPENDITURE OF FUNDS- In allocating funds under subsection (c), the Secretary of the Interior and the Secretary of Agriculture shall take into consideration factors including--

(A) the availability of non-Federal contributions from State, local, or private sources;

(B) opportunities to protect wildlife corridors or otherwise to link or consolidate fragmented habitats;

(C) opportunities to reduce the risk of catastrophic wildfires, extreme flooding, or other climate-related events that are harmful to fish and wildlife and people;

(D) the potential for conservation of species or habitat types at serious risk due to climate change, ocean acidification, and other stressors; and

(E) the potential to provide enhanced access to land and water for fishing, hunting, and other public recreational uses.

(d) Forest Service- Of the amounts made available annually to carry out this section, 5 percent shall be allocated 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.

(e) Environmental Protection Agency- Of the amounts made available annually to carry out this section, 5 percent shall be allocated to the Administrator of the Environmental Protection Agency for use in adaptation activities restoring and protecting--

(1) 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;

(2) large-scale estuarine ecosystems, such as Chesapeake Bay, Long Island Sound, Puget Sound, the Mississippi River Delta, San Francisco Bay Delta, Narragansett Bay, and Albemarle-Pamlico Sound; and

(3) freshwater and estuarine ecosystems, watersheds, and basins identified as priorities by the Administrator of the Environmental Protection Agency, working in cooperation with other Federal agencies, States, local governments, scientists, and other conservation partners.

(f) Corps of Engineers- Of the amounts made available annually to carry out this section, 10 percent shall be allocated to the Secretary of the Army for use by the Corps of Engineers to carry out adaptation activities restoring--

(1) large-scale freshwater aquatic ecosystems, such as the ecosystems described in subsection (e)(1);

(2) large-scale estuarine ecosystems, such as the ecosystems described in subsection (e)(2);

(3) 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

(4) habitats or ecosystems under programs such as the Estuary Restoration Act of 2000 (33 U.S.C. 2901 et seq.), project modifications for improvement of the environment, and aquatic restoration under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330).

(g) Department of Commerce- Of the amounts made available annually to carry out this section, 10 percent shall be allocated 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--

(1) the coastal and estuarine land conservation program;

(2) the community-based restoration program;

(3) the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), subject to the condition that State coastal agencies shall incorporate, and the Secretary of Commerce shall approve, coastal zone management plan elements that are--

(A) consistent with the national adaptation strategy under subsection (i), as part of a coastal zone management program established under this Act; and

(B) specifically designed to strengthen the ability of coastal, estuarine, and marine resources, habitats, and ecosystems to adapt to and withstand the impacts of--

(i) global warming; and

(ii) where practicable, ocean acidification;

(4) the Open Rivers Initiative;

(5) the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(6) the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.);

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

(8) the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.); and

(9) the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.).

(h) Cost Sharing- Notwithstanding any other provision of law, a State or Indian tribe that receives a grant under paragraph (1) or (4) of subsection (b) shall provide 10 percent of the costs of each activity carried out using amounts under the grant.

(i) National Adaptation Strategy-

(1) IN GENERAL- Effective beginning on the date on which the President establishes the national strategy under paragraph (3), funds made available under paragraphs (2), (3), and (4) of subsection (b) and subsections (c) through (g) shall be used only for adaptation activities that are consistent with the national strategy.

(2) INITIAL PERIOD- Until the date on which the President establishes the national strategy under paragraph (3), funds made available under paragraphs (2), (3), and (4) of subsection (b) and subsections (c) through (g) shall be used only for adaptation activities that are consistent with a workplan established by the President.

(3) NATIONAL STRATEGY-

(A) IN GENERAL- Not later than 3 years after the date of enactment of this Act, the President shall develop and implement a national strategy for assisting fish and wildlife, fish and wildlife habitat, plants, and associated ecological processes in becoming more resilient and adapting to the impacts of climate change and ocean acidification.

(B) ADMINISTRATION- In establishing and revising the national strategy, the President shall--

(i) base the national strategy on the best available science, as identified by the Science Advisory Board established under subparagraph (D);

(ii) develop the national strategy in cooperation with State fish and wildlife agencies, State coastal agencies, United States territories, and Indian tribes;

(iii) coordinate with the Secretary of the Interior, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Defense, the Administrator of the Environmental Protection Agency, and other agencies as appropriate;

(iv) consult with local governments, conservation organizations, scientists, and other interested stakeholders; and

(v) provide public notice and opportunity for comment.

(C) CONTENTS- The President shall include in the national strategy, at a minimum, prioritized goals and measures and a schedule for implementation--

(i) to identify and monitor fish and wildlife, fish and wildlife habitat, plants, and associated ecological processes that are particularly likely to be adversely affected by climate change and ocean acidification and have the greatest need for conservation;

(ii) to identify and monitor coastal, estuarine, marine, terrestrial, and freshwater habitats that are at the greatest risk of being damaged by climate change and ocean acidification;

(iii) to assist species in adapting to the impacts of climate change and ocean acidification;

(iv) to protect, acquire, maintain, and restore fish and wildlife habitat to build resilience to climate change and ocean acidification;

(v) to provide habitat linkages and corridors to facilitate fish, wildlife, and plant movement in response to climate change and ocean acidification;

(vi) to restore and protect ecological processes that sustain fish, wildlife, and plant populations that are vulnerable to climate change and ocean acidification;

(vii) to protect, maintain, and restore coastal, marine, and aquatic ecosystems so that the ecosystems are more resilient and better able to withstand the additional stresses associated with climate change, including relative sea level rise and ocean acidification;

(viii) to protect ocean and coastal species from the impact of climate change and ocean acidification;

(ix) to incorporate adaptation strategies and activities to address relative sea level rise in coastal zone planning;

(x) to protect, maintain, and restore ocean and coastal habitats to build healthy and resilient ecosystems, including the purchase of coastal and island land; and

(xi) to incorporate consideration of climate change and ocean acidification, and to integrate adaptation strategies and activities for fish and wildlife, fish and wildlife habitat, plants, and associated ecological processes, in the planning and management of Federal land and water administered by the Federal agencies that receive funding under this section.

(D) SCIENCE ADVISORY BOARD-

(i) ESTABLISHMENT- Not later than 180 days after the date of enactment of this Act, 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, who shall--

(I) be recommended by the President of the National Academy of Sciences;

(II) have expertise in fish, wildlife, plant, aquatic, and coastal and marine biology, ecology, climate change, ocean acidification, and other relevant scientific disciplines; and

(III) represent a balanced membership between Federal, State, and local representatives, universities, and conservation organizations.

(ii) DUTIES- The science advisory board shall--

(I) advise the President and relevant Federal agencies and departments on--

(aa) the best available science regarding the impacts of climate change and ocean acidification on fish and wildlife, habitat, plants, and associated ecological processes; and

(bb) scientific strategies and mechanisms for adaptation; and

(II) identify and recommend priorities for ongoing research needs on those issues.

(iii) COLLABORATION- The science advisory board shall collaborate with other climate change and ecosystem research entities in other Federal agencies and departments.

(iv) AVAILABILITY TO PUBLIC- The advice and recommendations of the science advisory board shall be made available to the public.

(v) NONAPPLICABILITY OF FAC- The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the science advisory board.

(E) COORDINATION WITH OTHER PLANS- In developing the national strategy, the President shall, to the maximum extent practicable--

(i) take into consideration research and information contained in--

(I) State comprehensive wildlife conservation plans;

(II) the North American waterfowl management plan;

(III) the national fish habitat action plan;

(IV) coastal zone management plans;

(V) the reports of the Pew Oceans Commission and the United States Commission on Ocean Policy; and

(VI) other relevant plans; and

(ii) coordinate and integrate the goals and measures identified in the national strategy with the goals and measures identified in those plans.

(F) REVISIONS- Not later than 5 years after the date on which the strategy is developed, and not less frequently than every 5 years thereafter, the President shall review and update the national strategy using the procedures described in this paragraph.

(j) State Comprehensive Adaptation Strategies-

(1) IN GENERAL- Except as provided in paragraph (2), funds made available to States under this part shall be used only for activities that are consistent with a State strategy that has been approved by--

(A) the Secretary of the Interior; and

(B) for any State with a coastal zone (within the meaning of the Coastal Zone Management Act (16 U.S.C. 1451 et seq.)), by the Secretary of Commerce, subject to the condition that approval by the Secretary of Commerce shall be required only for those portions of the strategy relating to activities affecting the coastal zone.

(2) INITIAL PERIOD-

(A) IN GENERAL- Until the earlier of the date that is 3 years after the date of 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 subsection (b)(1) for adaptation activities that are--

(i) consistent with the comprehensive wildlife strategy of the State and, where appropriate, other fish, wildlife and conservation strategies; and

(ii) in accordance with a workplan developed in coordination with--

(I) the Secretary of the Interior; and

(II) for any State with a coastal zone (within the meaning of the Coastal Zone Management Act (16 U.S.C. 1451 et seq.)), by the Secretary of Commerce, 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.

(B) PENDING APPROVAL- During the period for which approval by the applicable Secretary of a State strategy described in paragraph (3) is pending, the State may continue receiving funds under subsection (b)(1) pursuant to the workplan described subparagraph (A)(ii).

(3) REQUIREMENTS- A State strategy shall--

(A) describe the impacts of climate change and ocean acidification on the diversity and health of the fish, wildlife and plant populations, habitats, and associated ecological processes;

(B) describe and prioritize proposed conservation actions to assist fish, wildlife, and plant populations in adapting to those impacts;

(C) establish programs for monitoring the impacts of climate change on fish, wildlife, and plant populations, habitats, and associated ecological processes;

(D) include strategies, specific conservation actions, and a timeframe for implementing conservation actions for fish, wildlife, and plant populations, habitats, and associated ecological processes;

(E) establish methods for assessing the effectiveness of conservation actions taken to assist fish, wildlife, and plant populations, habitats, and associated ecological processes in adapting to those impacts and for updating those actions to respond appropriately to new information or changing conditions;

(F) be developed--

(i) with the participation of the State fish and wildlife agency, the State agency responsible for administration of Land and Water Conservation Fund grants, the State Forest Legacy program coordinator, and the State coastal agency; and

(ii) in coordination with the Secretary of the Interior and, where applicable, the Secretary of Commerce;

(G) provide for solicitation and consideration of public and independent scientific input;

(H) take into consideration research and information contained in, and coordinate with and integrate the goals and measures identified in, as appropriate, other fish, wildlife, and habitat conservation strategies, including--

(i) the national fish habitat action plan;

(ii) plans under the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.);

(iii) the Federal, State, and local partnership known as 'Partners in Flight';

(iv) federally approved coastal zone management plans under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

(v) federally approved regional fishery management plans and habitat conservation activities under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

- (vi) the national coral reef action plan;
 - (vii) 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));
 - (viii) habitat conservation plans under section 10 of that Act (16 U.S.C. 1539);
 - (ix) other Federal and State plans for imperiled species;
 - (x) the United States shorebird conservation plan;
 - (xi) the North American waterbird conservation plan; and
 - (xii) other State-based strategies that comprehensively implement adaptation activities to remediate the effects of climate change and ocean acidification on fish, wildlife, and habitats; and
- (I) be 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)(I) that has been approved by the Service; or
 - (II) on which a decision on approval is pending.
- (4) UPDATING- Each State strategy described in paragraph (3) shall be updated at least every 5 years.

PART 3--EARLY ACTION

SEC. 331. EARLY ACTION.

- (a) In General- Annually, the Secretary of the Treasury shall distribute the balance of the Early Action Account established under section 9512 to owners or operators of covered facilities and other facilities that emit greenhouse gas in accordance with the procedures and standards in subsection (b), in recognition of actions of the owners and operators taken since January 1, 1994, that resulted in verified and credible reductions of greenhouse gas emissions.
- (b) Regulations- (b) Not later than 1 year after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall establish by regulation, procedures and standards for use in distributing to owners and operators of covered facilities and other facilities that emit greenhouse gas, amounts in the Early Action Account.
- (c) Procedures and Standards- The procedures and standards established under subsection (b) shall provide for consideration of verified and credible emission reductions registered before the date of enactment of this Act under--
- (1) the Climate Leaders Program, or any other voluntary greenhouse gas reduction program of the United States Environmental Protection Agency and the United States Department of Energy;
 - (2) the Voluntary Reporting of Greenhouse Gases Program of the Energy Information Administration;
 - (3) State or regional greenhouse gas emission reduction programs that include systems for tracking and verifying the greenhouse gas emission reductions; and
 - (4) voluntary entity programs that resulted in entity-wide reductions (including offsetting load growth) in greenhouse gas emissions.
- (d) Eligible Actions- Activities for which early action credit may be awarded may include, but are not limited to--
- (1) avoided greenhouse gas emissions from programs that reduce load growth, including: --
 - (A) energy efficiency;
 - (B) demand side management; and
 - (C) zero-emissions energy resources, including renewable energy, and
 - (2) purchases of voluntary carbon offsets that result in measurable, verifiable, additional, and enforceable greenhouse gas reductions (or increase in sequestered greenhouse gas emissions) that are third party certified and verified according to the third party standard and registered with a tracking system for certified offsets.

PART 4--STATE AND TRIBAL ACTION

SEC. 341. ALLOCATION FOR ENERGY SAVINGS.

- (a) Allocation for Building Efficiency- Not later than January 1, 2012, and annually thereafter through January 1, 2050, the Secretary of the Treasury shall allocate 6 percent of the balance of the State and Tribal Action Account among States that are in compliance with section 304(c) of the Energy Conservation and Production Act .
- (b) Distribution- Not later than 2 years after the date of enactment of this Act, the Secretary of the Treasury shall establish procedures and standards for the distribution of amounts to States in accordance with subsections (a) and (b).

SEC. 342. ALLOCATION FOR STATES WITH PROGRAMS THAT EXCEED FEDERAL EMISSION REDUCTION TARGETS.

(a) Allocation- Not later than April 1, 2011, and annually thereafter through calendar year 2049, the Secretary of the Treasury shall allocate 25 percent of the balance of the State and Tribal Action Account for the following calendar year among States that have--

(1) before the date of enactment of this Act, enacted statewide greenhouse gas emission reduction targets that are more stringent than the nationwide targets established under section 9911 of the Internal Revenue Code of 1986; and

(2) by the time of an allocation under this subsection, imposed on covered facilities within the States aggregate greenhouse gas emission limitations more stringent than those imposed on covered facilities under section 9911 of the Internal Revenue Code of 1986.

(b) Distribution- Not later than 2 years after the date of enactment of this Act, the Secretary of the Treasury shall establish procedures and standards for use in distributing funds among States in accordance with subsection (a).

(c) Use- Any State receiving funds under this section for a calendar year shall use not less than 90 percent of such funds in 1 or more of the ways described in section 343(c)(1).

SEC. 343. GENERAL ALLOCATION.

(a) Allocation- Subject to subsection (d)(3), not later than April 1, 2011, and annually thereafter through calendar year 2049, the Secretary of the Treasury shall allocate 62 percent of the balance of the State and Tribal Action Account for the following calendar year among States.

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

(1) For each calendar year, 1/2 of the amount available for allocation to States under subsection (a) shall be distributed among individual States based on the proportion that--

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

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

(2) For each calendar year, 1/2 of the amount available for allocation to States under subsection (a) shall be distributed among the States based on the proportion that--

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

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

(c) Use-

(1) IN GENERAL- During any calendar year, a State shall use in 1 or more of the following ways not less than 90 percent of the amount allocated to the State under this section for that calendar year:

(A) To address local or regional impacts of climate change, including by accommodating, protecting, or relocating affected communities and public infrastructure.

(B) To collect, evaluate, disseminate, and use information necessary for affected coastal communities to adapt to climate change (such as information derived from inundation prediction systems).

(C) To address local or regional impacts of climate change policy, including providing assistance to displaced workers.

(D) To mitigate impacts on energy-intensive industries in internationally competitive markets.

(2) USE FOR RECYCLING- During any calendar year, a State shall use not less than 5 percent of the amounts allocated to the State under this section for increasing recycling rates through activities such as--

(A) improving recycling infrastructure;

(B) increasing public education on the benefits of recycling, particularly with respect to greenhouse gases;

(C) improving residential, commercial, and industrial collection of recyclables;

(D) improving recycling system efficiency;

(E) increasing recycling yields; and

(F) improving the quality and usefulness of recycled materials.

(3) OFFSET OF INCREASED ENERGY COSTS- Any amount allocated to a State under this section which is not used for a purpose described in paragraph (1) shall be used to offset the increased energy costs incurred by the State in the performance of governmental functions.

(d) Program for Tribal Communities-

(1) ESTABLISHMENT- Not later than 3 years after the date of enactment of this Act, the Secretary of the Interior shall by regulation establish a program for Indian tribes that is designed to deliver assistance to Indian tribes within the United States that face disruption or dislocation as a result of global climate change, utilizing the rulemaking process identified under the Negotiated Rulemaking Act (5 U.S.C. 657 et seq.).

(2) ALLOCATION- Beginning in the first calendar year that begins after promulgation of the regulations referred to in paragraph (1), and annually thereafter until calendar year 2050, the Secretary of the Treasury shall allocate 7 percent of the balance of the State and Tribal Action Account for each calendar year to the program established under paragraph (1).

PART 5--DOMESTIC AGRICULTURE AND FORESTRY

SEC. 351. ALLOCATION.

The Secretary of Agriculture shall carry out a program to--

(1) achieve real, verifiable, additional, permanent, and enforceable reductions in greenhouse gas emissions from the agriculture and forestry sectors of the United States economy; and

(2) achieve real, verifiable, additional, permanent, and enforceable increases in greenhouse gas sequestration from those sectors.

SEC. 352. AGRICULTURAL AND FORESTRY GREENHOUSE GAS MANAGEMENT RESEARCH.

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

(1) research on soil carbon sequestration and other agricultural and forestry greenhouse gas management that has been carried out;

(2) any additional research that is necessary;

(3) the proposed priority for additional research;

(4) the most appropriate approaches for conducting the additional research; and

(5) the extent to which and the manner in which carbon credits that are specific to agricultural and forestry operations, including harvested wood products and the reduction of hazardous fuels to reduce the risk of uncharacteristically severe wildfires, should be valued and allotted.

(b) Standardized System of Soil Carbon Measurement and Certification for the Agricultural and Forestry Sectors-

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

(2) ADMINISTRATION- In establishing the system, the Secretary of Agriculture shall--

(A) create a standardized system of measurements for agricultural and forestry greenhouse gases; and

(B) delineate the most appropriate system of certification of credit by public or private entities.

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

SEC. 353. DISTRIBUTION.

(a) In General- Taking into account the report prepared under section 352(a), the Secretary of Agriculture shall establish, by regulation, a program under which amounts from the Domestic Agriculture and Forestry Account established under section 9941 of the Internal Revenue Code of 1986 may be distributed to entities that carry out projects on agricultural and forest land that achieve real, verifiable, additional, permanent, and enforceable greenhouse gas emission mitigation benefits.

(b) Nitrous Oxide and Methane- The Secretary of Agriculture shall ensure that, during any 5-year period, the average annual percentage of amounts distributed to entities under the program established under subsection (a) specifically for achieving real, verifiable, additional, permanent, and enforceable reductions in nitrous oxide emissions through soil management or achieving real, verifiable, additional, permanent, and enforceable reductions in methane emissions through enteric fermentation and manure management shall be 0.5 percent.

(c) Requirement- The Secretary of Agriculture shall make distributions under this section in a manner that maximizes the avoidance or reduction of greenhouse gas emissions.

PART 6--INTERNATIONAL FORESTRY

SEC. 361. FINDINGS.

Congress finds that--

- (1) land-use change and forest sector emissions account for approximately 20 percent of global greenhouse gas emissions;
- (2) land conversion and deforestation are 2 of the largest sources of greenhouse gas emissions in the developing world, amounting to roughly 40 percent of the total greenhouse gas emissions of the developing world;
- (3) with sufficient data, deforestation rates and forest carbon stocks can be measured with an acceptable level of uncertainty;
- (4) some countries are or will soon be ready to make national-level commitments to reduce deforestation and forest degradation and to engage in activities to achieve measurable results, while other countries will benefit from capacity building programs for a few years in order to establish the necessary domestic institutions and laws to achieve reductions; and
- (5) encouraging reduced deforestation and other forest carbon activities in other countries can--
 - (A) provide critical leverage to encourage voluntary developing country participation in emission limitation regimes;
 - (B) facilitate greater overall reductions in greenhouse gas emissions than would otherwise be practicable; and
 - (C) substantially benefit biodiversity, conservation and indigenous and other forest-dependent people in developing countries.

SEC. 362. DEFINITION OF DEFORESTATION REDUCTION ACTIVITIES.

In this part, the term `deforestation reduction activities' means--

- (1) activities directed at reducing greenhouse gas emissions from deforestation and forest degradation in countries other than the United States; and
- (2) activities directed at increasing sequestration of carbon through restoration of forests, and degraded land in countries other than the United States that has not been forested prior to restoration, afforestation and improved forest management, that meet the eligibility requirements and quality criteria promulgated under section 364.

SEC. 363. ALLOCATION.

Not later than April 1, 2011, and annually thereafter through calendar year 2049, the Administrator of the Environmental Protection Agency shall allocate and distribute the balance of the International Forestry Account for the following calendar year for use in carrying out deforestation reduction activities in countries other than the United States.

SEC. 364. QUALITY CRITERIA FOR DEFORESTATION REDUCTION ACTIVITIES.

Not later than 2 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency, in consultation with the Secretary of the Interior, the Secretary of State, and the Secretary of Agriculture, shall promulgate quality criteria for deforestation reduction activities directed at reducing emissions from deforestation and forest degradation, and at sequestration of carbon through restoration of forests and degraded land, afforestation, and improved forest management in countries other than the United States, including requirements that those activities be--

- (1) designed, carried out, and managed -
 - (A) in accordance with widely-accepted environmentally sustainable forestry practices;
 - (B) to promote native species and restoration of native forests, where practicable and to avoid the introduction of invasive nonnative species; and
 - (C) to promote fair compensation, public participation, and the informed consent of affected local communities and forest dependent populations; and
- (2) for not less than 50 percent of the funds covered by this part, requirements that ensure that the associated emission reductions or sequestrations are real, permanent, additional, verifiable and enforceable, with reliable measuring and monitoring and appropriate accounting for leakage.

SEC. 365. ELIGIBILITY FOR DEFORESTATION REDUCTION ACTIVITIES.

(a) In General- The Administrator of the Environmental Protection Agency, in consultation with the Secretary of State, shall identify and periodically update two lists of eligible countries for allocation and distribution of the International Forestry Account, based on their level of development of domestic programs to implement deforestation reduction activities, one identified as Phase I and the other as Phase II.

(b) Phase I Countries- The Phase I list, eligible for up to 50 percent of the funds covered by this part, shall include countries that have demonstrated a commitment to conduct preparatory activities, which shall be identified in regulations promulgated by the Administrator of the Environmental Protection Agency, which are essential for building the capacity of the country to engage in deforestation or forest degradation reduction activities as described in section 362 and subsection (c), including project-level and institution building activities.

(c) Phase II Countries- The Phase II list, eligible for not less than 50 percent of the funds covered by this part, shall be limited to countries that have--

- (1) demonstrated the capacity to measure the results of international deforestation reduction activities, based on sufficient,

accurate and verifiable historical data on changes in national forest carbon stocks, and also demonstrated the institutional capacity to reduce emissions from deforestation and degradation;

(2) capped greenhouse gas emissions from deforestation or other land use change or otherwise established a national emission reference scenario based on historical data;

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

(4) achieved national-level reductions of deforestation and degradation below a baseline or credible reference scenario, taking into account the average annual deforestation and degradation rates of the country during a period of at least 5 consecutive years; and

(5) demonstrated those reductions using remote sensing technology, taking into account relevant international standards.

(d) The Administrator of the Environmental Protection Agency is encouraged to identify other incentives, including economic and market-based incentives, to encourage developing countries with largely intact native forests to protect those forests.

(e) No country may be eligible for both capacity building funds under subsection (b) and participation in an agreement for international forest carbon activities under section 114 of the Climate MATTERS Act of 2008.

SEC. 366. REVIEWS AND DISCOUNT.

(a) Reviews- Not later than 3 years after the date of enactment of this Act, and 5 years thereafter, the Administrator of the Environmental Protection Agency shall conduct a review of the program under this part.

(b) Discount- If, after the date that is 10 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency determines that foreign countries that, in the aggregate, generate greenhouse gas emissions accounting for more than 0.5 percent of global greenhouse gas emissions have not capped those emissions, established emissions reference scenarios based on historical data, or otherwise reduced total forest emissions, such Administrator may apply a discount to distributions of funds to those countries under this part.

PART 7--ENERGY EFFICIENCY

SEC. 371. ALLOCATION.

Not later than April 1, 2011, and annually thereafter through calendar year 2049, the Secretary of the Treasury shall allocate--

(1) 39 percent of the balance of the Energy Efficiency Account established under section 9512 of the Internal Revenue Code of 1986 for the following year to States that can demonstrate they have established a program that will reduce electricity and natural gas demand in the state by 2 percent each year,

(2) 39 percent of the balance of the balance of such Energy Efficiency Account for the following year among load-serving entities,

(3) 10 percent of the balance of such Energy Efficiency Account for the following year to carry out the low-income home energy assistance program established under the Low Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.),

(4) 2 percent of the balance of such Energy Efficiency Account for the following year to carry out the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.), and

(5) 10 percent of the balance of such Energy Efficiency Account for the following year to carry out activities that directly increase the energy efficiency in units assisted under the HOME Investment Partnerships Program established under title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12721 et seq.).

SEC. 372. DISTRIBUTION.

(a) In General- For each calendar year, the funds allocated under section 371 to load-serving entities shall be distributed by the Secretary of the Treasury to each load-serving entity, including each rural electric cooperative that serves as a load-serving entity in a State, based on the proportion that--

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

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

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

SEC. 373. USE.

All funds received under this part by a load-serving entity shall be used solely to promote energy efficiency on the part of energy consumers.

SEC. 374. REPORTING.

(a) In General- Each load-serving entity that accepts funds distributed under this part shall, for each calendar year for which the load-serving entity accepts such funds, submit to the Secretary of Energy to report to the Secretary of the Treasury a report describing how, and to what extent, the load-serving entity used such funds during the preceding year.

(b) Availability of Reports- The Secretary of the Treasury shall make available to the public all reports submitted by any load-serving entity under subsection (a), including by publishing those reports on the Internet.

PART 8--ALTERNATIVE TRANSPORTATION

SEC. 381. GRANTS TO PROVIDE FOR ADDITIONAL AND IMPROVED PUBLIC TRANSPORTATION SERVICE.

(a) In General- Of the funds allocated to the Transportation Alternatives Account each year pursuant to section 9512 of the Internal Revenue Code of 1986, 32 percent shall be distributed to designated recipients (as defined in section 5307(a) of title 49, United States Code) to maintain or improve public transportation through activities eligible under that section and associated measures that increase the direct or indirect greenhouse gas emissions reductions projected to result from those eligible activities, including--

- (1) improvements to lighting, heating, cooling, or ventilation systems in stations and other facilities that reduce direct or indirect greenhouse gas emissions;
- (2) adjustments to signal timing or other vehicle controlling systems that reduce direct or indirect greenhouse gas emissions;
- (3) purchasing or retrofitting rolling stock to improve efficiency or reduce greenhouse gas emissions; and
- (4) improvements to energy distribution systems.

(b) Distribution- Of the balance of account funds, the Secretary shall distribute under subsection (a)----

- (1) 60 percent in accordance with the formulas contained in subsections (a) through (c) of section 5336 of title 49, United States Code; and
- (2) 40 percent in accordance with the formula contained in section 5340 of that title.

(c) Terms and Conditions- A grant provided under this subsection shall be subject to the terms and conditions applicable to a grant provided under section 5307 of title 49, United States Code.

(d) Cost Share- The Federal share of cost of carrying out an activity using a grant under this subsection shall be determined in accordance with section 5307(e) of title 49, United States Code.

SEC. 382. GRANTS FOR CONSTRUCTION OF NEW PUBLIC TRANSPORTATION PROJECTS.

(a) In General- Of the funds deposited in the Transportation Alternatives Account each year pursuant to section 9512 of the Internal Revenue Code of 1986, 32 percent shall be distributed to State and local government authorities for design, engineering, and construction of new fixed guideway transit projects or extensions to existing fixed guideway transit systems that will assist in reducing direct or indirect greenhouse gas emissions of the regional transportation sector.

(b) Applications- Applications for grants under this section shall be reviewed according to the process and criteria established under section 5309(c) of title 49, United States Code, for major capital investments and section 5309(d) of title 49, United States Code, for other projects.

(c) Terms and Conditions- Grant funds awarded under this section shall be subject to the terms and conditions applicable to a grant made under section 5309 of title 49, United States Code.

SEC. 383. GRANTS FOR TRANSPORTATION ALTERNATIVES AND TRAVEL DEMAND REDUCTION PROJECTS.

(a) In General- Of the funds deposited into the Transportation Alternatives Account each year pursuant to section 9512 of the Internal Revenue Code of 1986, 32 percent shall be awarded to designated recipients (as defined in section 5307(a) of title 49, United States Code) and State, regional, and local government authorities to assist in reducing the direct and indirect greenhouse gas emissions of the regional transportation sector, through the following activities--

- (1) Carpool or telecommuting projects that do not include new roadway capacity;
- (2) Bicycle transportation and pedestrian walkways in accordance with section 217 of title 23, United State Code, and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);
- (3) Updating zoning and land use regulations to support, allow, or incentivize walkable or transit-supportive development patterns and land uses;
- (4) Transportation enhancement activities, including design and retrofitting of streets for multimodal access;
- (5) Infrastructure-based intelligent transportation systems that help reduce vehicle miles traveled, including automated road-pricing, congestion pricing, and advanced traffic management systems, provided they do not involve construction of significant new roadway capacity;
- (6) Market-based programs to reduce travel demand, including car or bicycle sharing and pay-as-you-drive insurance.

(b) Distribution of Funds- In determining the recipients of grants under this section, applications shall be evaluated based on the total direct and indirect greenhouse gas emissions reductions that are projected to result from the project and projected reductions

as a percentage of the total direct and indirect emissions of an entity, as determined by applicants using methods developed and promulgated by the Administrator, in concert with the Administrator of the United States Department of Transportation, no more than 3 years after the passage of this Act.

(c) Government Share of Costs- The Federal share of the cost of an activity funded using amounts made available under this section may not exceed 80 percent of the cost of the activity.

(d) Terms and Conditions- Except to the extent inconsistent with the terms of this section, grant funds awarded under this section shall be subject to the terms and conditions applicable to a grant made under section 133 of title 23, United States Code.

SEC. 384. TECHNICAL CAPACITY AND STANDARDS.

(a) In General- Of the funds deposited into the Transportation Alternatives Accounts each year pursuant to section 9512 of the Internal Revenue Code of 1986, 4 percent shall be distributed to Federal, State, and local government authorities including Municipal Planning Organizations to allocate resources and staff to improve and apply technical capacity for the development of plans and future plan updates including--

(1) collection of travel and land use data to measure transportation system performance using per capita vehicle miles traveled and other measures adopted by the Administrator of the Environmental Protection Agency, with the concurrence of the Secretary of Transportation;

(2) monitoring and periodically reporting vehicle miles traveled by municipal planning region and statewide to demonstrate that performance objectives are achieved;

(3) modeling and analyses of transportation and land-use scenarios to develop regional and statewide plans and plan updates that will ensure that the emission reduction targets established in section 386(3) this will continue to met during the period prior to the planning horizon for each plan update;

(4) refinements to travel models to improve consideration of land use and non-motorized modes to estimate future system performance that are determined to be reliable for the purpose of estimating future travel and system performance; and

(5) stakeholder engagement.

(b) Distribution of Funds- The Secretary shall distribute funds under subsection (a) as follows:

(1) 80 percent to State and local government authorities for developing and implementing activities specified under subsection (a);

(2) 20 percent to the United States Environmental Protection Agency and the United States Department of Transportation to establish methods for providing guidance, support, tools, and information to State and local government authorities for developing and implementing activities specified under subsection (a).

SEC. 385. STUDY AND STANDARDS.

(a) Study- To improve the ability of recipients of funds under this part to maximize greenhouse gas emissions reductions resulting from funded activities, no more than 180 days after the passage of this Act----

(1) the National Academy of Sciences Transportation Research Board shall report to the Administrator of the United States Department of Transportation recommendations for improving research and tools to assess the effect of transportation plans and land use plans on motor vehicle usage rates and transportation sector greenhouse gas emissions; and

(2) the Government Accountability Office shall report to the Administrator of the Environmental Protection Agency on shortcomings of current government data sources needed to assess greenhouse gas emissions from the transportation sector and to establish plans and policies to effectively reduce greenhouse gas emissions from the transportation sector, and make recommendations to address these shortcomings.

(b) Technical Standards- Not more than 2 years after the passage of this Act, based on recommendations issued pursuant to subsection (a), the Administrators of the United States Environmental Protection Agency and the United States Department of Transportation shall promulgate standards for transportation data collection, monitoring, planning, and modeling.

SEC. 386. CONDITION FOR RECEIPT OF FUNDS.

To be eligible to receive funds under section 381, 382, or 383, projects or activities funded under such section must be part of an integrated State-wide, regional, or local transportation plan that shall--

(1) include all modes of surface transportation;

(2) utilize data collection, monitoring, planning, and modeling methods pursuant to standards established in section 385(b);

(3) establish targets for reducing long term greenhouse gas emissions from the regional transportation sector through reducing and managing motor vehicle usage;

(4) demonstrate that the targets established pursuant to subparagraph (3) will be achieved with--

(A) currently adopted land use plans and policies, or

(B) revised land use plans and policies for which commitments have been obtained by resolution of other lawful action taken by jurisdictions with authority to adopt land use plans and policies; and

(5) report on estimated direct and indirect greenhouse gases emissions from the transportation sector for 2005, and aggregate emissions for each five-year period within the planning horizon of the plan and each update; and

(6) be certified by the Administrator of the Environmental Protection Agency as consistent with the purposes of this Act.

TITLE IV--EMISSIONS DETERMINATIONS AND MISCELLANEOUS

SEC. 401. DEFINITIONS.

In this title:

- (1) ADMINISTRATOR- The term `Administrator' means the Administrator of the Environmental Protection Agency.
- (2) CARBON DIOXIDE EQUIVALENT- The term `carbon dioxide equivalent' means, for each greenhouse gas, the quantity of the greenhouse gas that the Administrator determines makes the same contribution to global warming as 1 metric ton of carbon dioxide.
- (3) GREENHOUSE GAS- The term `greenhouse gas' means any of--
- (A) carbon dioxide;
 - (B) methane;
 - (C) nitrous oxide;
 - (D) sulfur hexafluoride;
 - (E) a perfluorocarbon;
 - (F) a hydrofluorocarbon; or
 - (G) any other anthropogenically-emitted gas that is determined by the Administrator, after notice and comment, to contribute to global warming to a non-negligible degree.
- (4) SECRETARY- The term `Secretary' means the Secretary of the Treasury.

SEC. 402. FEDERAL GREENHOUSE GAS REGISTRY, EMISSIONS DETERMINATION, AND UNCOVERED SECTOR EMISSIONS.

(a) In General- For purposes of carrying out the emissions allowance system under subtitle L of the Internal Revenue Code of 1986, the Administrator shall--

- (1) develop a Federal Greenhouse Gas Registry that--
- (A) covers all United States emissions of greenhouse gases;
 - (B) is complete, consistent, transparent and accurate;
 - (C) will collect reliable and accurate data on increases and reductions in United States greenhouse gas emissions as well as greenhouse gas sequestration that can be used by public and private entities to design efficient and effective energy security initiatives and greenhouse gas emission reduction strategies; and
 - (D) will provide appropriate high-quality data to be used for implementing greenhouse gas reduction policies;
- (2) determine--
- (A) for each covered facility, the carbon dioxide equivalent of--
 - (i) greenhouse gas that was emitted by the use of coal by that covered facility during the preceding year;
 - (ii) greenhouse gas that will, assuming no capture and sequestration of that gas, be emitted from the use of any petroleum- or coal-based liquid or gaseous fuel that was produced or imported by that covered facility during the preceding year;
 - (iii) greenhouse gas that was produced for sale or distribution or imported by that facility during the preceding year;
 - (iv) greenhouse gas that was emitted as a byproduct of hydrochlorofluorocarbon production; and
 - (v) greenhouse gas that will, assuming no capture and destruction or sequestration of that gas, be emitted--
 - (I) from the use of natural gas that was, by that covered facility, processed, imported, or produced and not reinjected into the field; or
 - (II) from the use of natural gas liquids that were processed or imported by that covered facility during the preceding year; and
 - (B) any additional reduction in carbon dioxide equivalents by owners or operators of covered facilities, including additional net reduction of carbon dioxide equivalents due to displacing petroleum in the transportation sector through actions by the

owners or operators of covered facilities that result in increased use of electrified transportation, such as plug-in hybrid vehicles, electric vehicles, port electrification, electric rail, and truck stop electrification; and

(3) promulgate not later than 2 years after the date of the enactment of this Act, and periodically revise, regulations requiring that emissions in uncovered sectors do not grow, so as to ensure that the goal of this Act to reduce United States emissions 80 percent below 1990 levels by 2050 is met.

(b) Annual Report- The Administrator shall annually transmit to the Secretary a report describing the results of activities under subsection (a).

(c) Definitions- For purposes of this section--

(1) the term `uncovered sector' means any sector that is not primarily composed of covered facilities and whose greenhouse gas emissions are not already included in the cap through the regulation of a covered facility; and

(2) the term `United States greenhouse gas emissions' means the total quantity of greenhouse gas emissions calculated by the Administrator on an annual basis and reported to the United Nations Framework Convention on Climate Change Secretariat.

SEC. 403. PARAMOUNT INTEREST WAIVER.

(a) In General- If the President determines that a national security emergency exists and, in light of information that was not available as of the date of enactment of this Act, it is in the paramount interest of the United States to modify any requirement under this Act and the amendments made by this Act to minimize the effects of the emergency, the President may, after opportunity for public notice and comment, temporarily adjust, suspend, or waive any regulations promulgated pursuant to this Act and the amendments made by this Act to achieve that minimization.

(b) Consultation- In making an emergency determination under subsection (a), the President shall, to the maximum extent practicable, consult with and take into account any advice received from--

(1) the Secretary;

(2) the National Academy of Sciences;

(3) the Secretary of Energy; and

(4) the Administrator.

(c) Judicial Review- An emergency determination under subsection (a) shall be subject to judicial review in accordance with section 307 of the Clean Air Act (42 U.S.C. 7607).

SEC. 404. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.

(a) Rulemaking Procedures- Any rule, requirement, regulation, method, standard, program, determination, or final action made or promulgated pursuant to any title of this Act and the amendments made by this Act shall be subject to the rulemaking procedures described in sections 551 through 557 of title 5, United States Code.

(b) Enforcement- (1) Each provision of this Act and any regulation issued pursuant to this Act shall be fully enforceable pursuant to sections 113, 303, and 304 of the Clean Air Act (42 U.S.C. 7413, 7603, 7604). For purposes of enforcement under these sections, all requirements under this Act shall constitute requirements of the Clean Air Act, and, for purposes of enforcement under section 304 of the Clean Air Act (42 U.S.C. 7604), all requirements of this Act shall constitute emission standards or limitations under the Clean Air Act.

(2) All provisions related to mandatory duties of the Secretary or any other Federal official shall be fully enforceable pursuant to section 304 of the Clean Air Act (42 U.S.C. 7604).

(3) The district courts of the United States shall have jurisdiction to compel agency action (including discretionary agency action) under this Act that has been unreasonably delayed.

(c) Recordkeeping, Inspections, Monitoring, Entry, and Subpoenas- The Secretary shall have the same powers and authority provided under sections 114 and 307(a) of the Clean Air Act (42 U.S.C. 7414, 7607(a)) in carrying out, administering, and enforcing this Act and the amendments made by this Act.

(d) Judicial Review- A petition for judicial review of any regulation promulgated, or final action carried out, by the Secretary or any other Federal official or agency pursuant to this Act may be filed in the United States Court of Appeals for the appropriate circuit and otherwise only in accordance with section 307(b) of the Clean Air Act (42 U.S.C. 7607(b)), except that petitions concerning actions of the Secretary may only be filed in the United States Court of Appeals for the District of Columbia. The provisions of section 307(f) of the Clean Air Act (42 U.S.C. 7607(f)) shall govern the award of costs and attorneys' fees in such cases.

SEC. 405. RETENTION OF STATE AUTHORITY.

(a) In General- Except as provided in subsection (b), in accordance with section 116 of the Clean Air Act (42 U.S.C. 7416) and section 510 of the Federal Water Pollution Control Act (33 U.S.C. 1370), nothing in this Act and the amendments made by this Act precludes or abrogates the right of any State to adopt or enforce--

(1) any standard, cap, limitation, or prohibition relating to emissions of greenhouse gas; or

(2) any requirement relating to control, abatement, or avoidance of emissions of greenhouse gas.

(b) Exception- Notwithstanding subsection (a), no State may adopt a standard, cap, limitation, prohibition, or requirement that is less stringent than the applicable standard, cap, limitation, prohibition, or requirement under this Act and the amendments made by this Act.

SEC. 406. TRIBAL AUTHORITY.

For purposes of this Act and the amendments made by this Act, the Secretary may treat any federally recognized Indian tribe as a State, in accordance with section 301(d) of the Clean Air Act (42 U.S.C. 7601(d)).

SEC. 407. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act and the amendments made by this Act.

END

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