

109TH CONGRESS
1ST SESSION

H. R. 759

To provide for a program of scientific research on abrupt climate change, to accelerate the reduction of greenhouse gas emissions in the United States by establishing a market-driven system of greenhouse gas tradeable allowances that will limit greenhouse gas emissions in the United States, reduce dependence upon foreign oil, and ensure benefits to consumers from the trading in such allowances, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 2005

Mr. GILCHREST (for himself, Mr. OLVER, Mr. SHAYS, Mr. VAN HOLLEN, Mr. BOEHLERT, Mr. INSLEE, Mrs. KELLY, Ms. SOLIS, Mr. EHLERS, Mr. WAXMAN, Mr. CASTLE, Mr. MENENDEZ, Mr. PETRI, Mr. FORD, Mr. LEACH, Mr. UDALL of Colorado, Mr. SAXTON, Ms. SLAUGHTER, Mr. WELDON of Pennsylvania, Mr. MARKEY, Mr. WALSH, Ms. MCCOLLUM of Minnesota, Mrs. JOHNSON of Connecticut, Ms. SCHAKOWSKY, Mr. SIMMONS, and Mr. GEORGE MILLER of California) introduced the following bill; which was referred to the Committee on Science, and in addition to the Committee on Energy and Commerce, 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 provide for a program of scientific research on abrupt climate change, to accelerate the reduction of greenhouse gas emissions in the United States by establishing a market-driven system of greenhouse gas tradeable allowances that will limit greenhouse gas emissions in the United States, reduce dependence upon foreign oil, and

ensure benefits to consumers from the trading in such allowances, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Climate Stewardship
 5 Act of 2005”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.

TITLE I—FEDERAL CLIMATE CHANGE RESEARCH AND RELATED
ACTIVITIES

- Sec. 101. National Science Foundation fellowships.
- Sec. 102. Research grants.
- Sec. 103. Abrupt climate change research.
- Sec. 104. NIST greenhouse gas functions.
- Sec. 105. Development of new measurement technologies.
- Sec. 106. Enhanced environmental measurements and standards.
- Sec. 107. Technology development and diffusion.
- Sec. 108. Agricultural outreach program.
- Sec. 109. NOAA Report on climate change effects; preparation assistance.

TITLE II—NATIONAL GREENHOUSE GAS DATABASE

- Sec. 201. National greenhouse gas database and registry established.
- Sec. 202. Inventory of greenhouse gas emissions for covered entities.
- Sec. 203. Greenhouse gas reduction reporting.
- Sec. 204. Measurement and verification.

TITLE III—MARKET-DRIVEN GREENHOUSE GAS REDUCTIONS

Subtitle A—Emission Reduction Requirements; Use of Tradeable Allowances

- Sec. 301. Covered entities must submit allowances for emissions.
- Sec. 302. Compliance.
- Sec. 303. Borrowing against future reductions.
- Sec. 304. Other uses of tradeable allowances.
- Sec. 305. Exemption of source categories.

Subtitle B—Establishment and Allocation of Tradeable Allowances

- Sec. 331. Establishment of tradeable allowances.
- Sec. 332. Determination of tradeable allowance allocations.

Sec. 333. Allocation of tradeable allowances.
 Sec. 334. Ensuring target adequacy.
 Sec. 335. Initial allocations for early participation and accelerated participation.
 Sec. 336. Bonus for accelerated participation.

Subtitle C—Climate Change Credit Corporation

Sec. 351. Establishment.
 Sec. 352. Purposes and functions.

Subtitle D—Sequestration Accounting; Penalties

Sec. 371. Sequestration accounting.
 Sec. 372. Penalties.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) ADMINISTRATOR.—The term “Adminis-
 4 trator” means the Administrator of the Environ-
 5 mental Protection Agency.

6 (2) BASELINE.—The term “baseline” means
 7 the historic greenhouse gas emission levels of an en-
 8 tity, as adjusted upward by the Administrator to re-
 9 flect actual reductions that are verified in accord-
 10 ance with—

11 (A) regulations promulgated under section
 12 201(c)(1); and

13 (B) relevant standards and methods devel-
 14 oped under this title.

15 (3) CARBON DIOXIDE EQUIVALENTS.—The term
 16 “carbon dioxide equivalents” means, for each green-
 17 house gas, the amount of each such greenhouse gas
 18 that makes the same contribution to global warming

1 as one metric ton of carbon dioxide, as determined
2 by the Administrator.

3 (4) COVERED SECTORS.—The term “covered
4 sectors” means the electricity, transportation, indus-
5 try, and commercial sectors, as such terms are used
6 in the Inventory.

7 (5) COVERED ENTITY.—The term “covered en-
8 tity” means an entity (including a branch, depart-
9 ment, agency, or instrumentality of Federal, State,
10 or local government) that—

11 (A) owns or controls a source of green-
12 house gas emissions in the electric power, in-
13 dustrial, or commercial sector of the United
14 States economy (as defined in the Inventory),
15 refines or imports petroleum products for use in
16 transportation, or produces or imports
17 hydrofluorocarbons, perfluorocarbons, or sulfur
18 hexafluoride; and

19 (B) emits, from any single facility owned
20 by the entity, over 10,000 metric tons of green-
21 house gas per year, measured in units of carbon
22 dioxide equivalents, or produces or imports—

23 (i) petroleum products that, when
24 combusted, will emit,

1 (ii) hydrofluorocarbons,
2 perfluorocarbons, or sulfur hexafluoride
3 that, when used, will emit, or

4 (iii) other greenhouse gases that,
5 when used, will emit,

6 over 10,000 metric tons of greenhouse gas per
7 year, measured in units of carbon dioxide
8 equivalents.

9 (6) DATABASE.—The term “database” means
10 the national greenhouse gas database established
11 under section 201.

12 (7) DIRECT EMISSIONS.—The term “direct
13 emissions” means greenhouse gas emissions by an
14 entity from a facility that is owned or controlled by
15 that entity.

16 (8) FACILITY.—The term “facility” means a
17 building, structure, or installation located on any 1
18 or more contiguous or adjacent properties of an enti-
19 ty in the United States.

20 (9) GREENHOUSE GAS.—The term “greenhouse
21 gas” means—

22 (A) carbon dioxide;

23 (B) methane;

24 (C) nitrous oxide;

25 (D) hydrofluorocarbons;

1 (E) perfluorocarbons; or

2 (F) sulfur hexafluoride.

3 (10) INDIRECT EMISSIONS.—The term “indirect
4 emissions” means greenhouse gas emissions that
5 are—

6 (A) a result of the activities of an entity;

7 but

8 (B) emitted from a facility owned or con-
9 trolled by another entity.

10 (11) INVENTORY.—The term “Inventory”
11 means the Inventory of U.S. Greenhouse Gas Emis-
12 sions and Sinks, prepared in compliance with the
13 United Nations Framework Convention on Climate
14 Change Decision 3/CP.5.

15 (12) LEAKAGE.—The term “leakage” means—

16 (A) an increase in greenhouse gas emis-
17 sions by one facility or entity caused by a re-
18 duction in greenhouse gas emissions by another
19 facility or entity; or

20 (B) a decrease in sequestration that is
21 caused by an increase in sequestration at an-
22 other location.

23 (13) PERMANENCE.—The term “permanence”
24 means the extent to which greenhouse gases that are

1 sequestered will not later be returned to the atmos-
2 phere.

3 (14) REGISTRY.—The term “registry” means
4 the registry of greenhouse gas emission reductions
5 established under section 201(b)(2).

6 (15) SECRETARY.—The term “Secretary”
7 means the Secretary of Commerce.

8 (16) SEQUESTRATION.—

9 (A) IN GENERAL.—The term “sequestra-
10 tion” means the capture, long-term separation,
11 isolation, or removal of greenhouse gases from
12 the atmosphere.

13 (B) INCLUSIONS.—The term “sequestra-
14 tion” includes—

15 (i) agricultural and conservation prac-
16 tices;

17 (ii) reforestation;

18 (iii) forest preservation; and

19 (iv) any other appropriate method of
20 capture, long-term separation, isolation, or
21 removal of greenhouse gases from the at-
22 mosphere, as determined by the Adminis-
23 trator.

24 (C) EXCLUSIONS.—The term “sequestra-
25 tion” does not include—

1 (i) any conversion of, or negative im-
2 pact on, a native ecosystem; or

3 (ii) any introduction of non-native
4 species.

5 (17) SOURCE CATEGORY.—The term “source
6 category” means a process or activity that leads to
7 direct emissions of greenhouse gases, as listed in the
8 Inventory.

9 (18) STATIONARY SOURCE.—The term “sta-
10 tionary source” means generally any source of
11 greenhouse gases except those emissions resulting di-
12 rectly from an engine for transportation purposes.

13 **TITLE I—FEDERAL CLIMATE**
14 **CHANGE RESEARCH AND RE-**
15 **LATED ACTIVITIES**

16 **SEC. 101. NATIONAL SCIENCE FOUNDATION FELLOWSHIPS.**

17 The Director of the National Science Foundation
18 shall establish a fellowship program for students pursuing
19 graduate studies in global climate change, including capa-
20 bility in observation, analysis, modeling, paleoclimatology,
21 consequences, and adaptation.

22 **SEC. 102. RESEARCH GRANTS.**

23 Section 105 of the Global Change Research Act of
24 1990 (15 U.S.C. 2935) is amended—

1 (1) by redesignating subsection (c) as sub-
2 section (d); and

3 (2) by inserting after subsection (b) the fol-
4 lowing:

5 “(c) RESEARCH GRANTS.—

6 “(1) COMMITTEE TO DEVELOP LIST OF PRI-
7 ORITY RESEARCH AREAS.—The Committee shall de-
8 velop a list of priority areas for research and devel-
9 opment on climate change that are not being ad-
10 dressed by Federal agencies.

11 “(2) DIRECTOR OF OSTP TO TRANSMIT LIST TO
12 NSF.—The Director of the Office of Science and
13 Technology Policy shall transmit the list to the Na-
14 tional Science Foundation.

15 “(3) FUNDING THROUGH NSF.—

16 “(A) BUDGET REQUEST.—The National
17 Science Foundation shall include, as part of the
18 annual request for appropriations for the
19 Science and Technology Policy Institute, a re-
20 quest for appropriations to fund research in the
21 priority areas on the list developed under para-
22 graph (1).

23 “(B) AUTHORIZATION.—For fiscal year
24 2006 and each fiscal year thereafter, there are
25 authorized to be appropriated to the National

1 Science Foundation not less than \$25,000,000,
2 to be made available through the Science and
3 Technology Policy Institute, for research in
4 those priority areas.”.

5 **SEC. 103. ABRUPT CLIMATE CHANGE RESEARCH.**

6 (a) IN GENERAL.—The Secretary, through the Na-
7 tional Oceanic and Atmospheric Administration, shall
8 carry out a program of scientific research on potential ab-
9 rupt climate change designed—

10 (1) to develop a global array of terrestrial and
11 oceanographic indicators of paleoclimate in order
12 sufficiently to identify and describe past instances of
13 abrupt climate change;

14 (2) to improve understanding of thresholds and
15 nonlinearities in geophysical systems related to the
16 mechanisms of abrupt climate change;

17 (3) to incorporate these mechanisms into ad-
18 vanced geophysical models of climate change; and

19 (4) to test the output of these models against
20 an improved global array of records of past abrupt
21 climate changes.

22 (b) ABRUPT CLIMATE CHANGE DEFINED.—In this
23 section, the term “abrupt climate change” means a change
24 in climate that occurs so rapidly or unexpectedly that

1 human or natural systems may have difficulty adapting
2 to it.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Secretary for fis-
5 cal year 2006 \$60,000,000 to carry out this section, such
6 sum to remain available until expended.

7 **SEC. 104. NIST GREENHOUSE GAS FUNCTIONS.**

8 Section 2(c) of the National Institute of Standards
9 and Technology Act (15 U.S.C. 272(c)) is amended—

10 (1) by striking “and” after the semicolon in
11 paragraph (21);

12 (2) by redesignating paragraph (22) as para-
13 graph (23); and

14 (3) by inserting after paragraph (21) the fol-
15 lowing:

16 “(22) perform research to develop enhanced
17 measurements, calibrations, standards, and tech-
18 nologies which will facilitate activities that reduce
19 emissions of greenhouse gases or increase sequestra-
20 tion of greenhouse gases, including carbon dioxide,
21 methane, nitrous oxide, ozone, perfluorocarbons,
22 hydrofluorocarbons, and sulfur hexafluoride; and”.

1 **SEC. 105. DEVELOPMENT OF NEW MEASUREMENT TECH-**
2 **NOLOGIES.**

3 To facilitate implementation of section 204, the Sec-
4 retary shall initiate a program to develop, with technical
5 assistance from appropriate Federal agencies, innovative
6 standards and measurement technologies to calculate
7 greenhouse gas emissions or reductions for which no accu-
8 rate or reliable measurement technology exists. The pro-
9 gram shall include—

- 10 (1) technologies (including remote sensing tech-
11 nologies) to measure carbon changes and other
12 greenhouse gas emissions and reductions from agri-
13 culture, forestry, and other land use practices; and
14 (2) technologies to calculate non-carbon dioxide
15 greenhouse gas emissions from transportation.

16 **SEC. 106. ENHANCED ENVIRONMENTAL MEASUREMENTS**
17 **AND STANDARDS.**

18 The National Institute of Standards and Technology
19 Act (15 U.S.C. 271 et seq.) is amended—

- 20 (1) by redesignating sections 17 through 32 as
21 sections 18 through 33, respectively; and

- 22 (2) by inserting after section 16 the following:

23 **“SEC. 17. CLIMATE CHANGE STANDARDS AND PROCESSES.**

24 **“(a) IN GENERAL.—**The Director shall establish
25 within the Institute a program to perform and support re-
26 search on global climate change standards and processes,

1 with the goal of providing scientific and technical knowl-
2 edge applicable to the reduction of greenhouse gases (as
3 defined in section 3 of the Climate Stewardship Act of
4 2005) and of facilitating implementation of section 204
5 of that Act.

6 “(b) RESEARCH PROGRAM.—

7 “(1) IN GENERAL.—The Director is authorized
8 to conduct, directly or through contracts or grants,
9 a global climate change standards and processes re-
10 search program.

11 “(2) RESEARCH PROJECTS.—The specific con-
12 tents and priorities of the research program shall be
13 determined in consultation with appropriate Federal
14 agencies, including the Environmental Protection
15 Agency, the National Oceanic and Atmospheric Ad-
16 ministration, and the National Aeronautics and
17 Space Administration. The program generally shall
18 include basic and applied research—

19 “(A) to develop and provide the enhanced
20 measurements, calibrations, data, models, and
21 reference material standards which will enable
22 the monitoring of greenhouse gases;

23 “(B) to assist in establishing a baseline
24 reference point for future trading in greenhouse

1 gases and the measurement of progress in emis-
2 sions reduction;

3 “(C) that will be exchanged internationally
4 as scientific or technical information which has
5 the stated purpose of developing mutually rec-
6 ognized measurements, standards, and proce-
7 dures for reducing greenhouse gases; and

8 “(D) to assist in developing improved in-
9 dustrial processes designed to reduce or elimi-
10 nate greenhouse gases.

11 “(c) NATIONAL MEASUREMENT LABORATORIES.—

12 “(1) IN GENERAL.—In carrying out this sec-
13 tion, the Director shall utilize the collective skills of
14 the National Measurement Laboratories of the Na-
15 tional Institute of Standards and Technology to im-
16 prove the accuracy of measurements that will permit
17 better understanding and control of industrial chem-
18 ical processes and result in the reduction or elimi-
19 nation of greenhouse gases.

20 “(2) MATERIAL, PROCESS, AND BUILDING RE-
21 SEARCH.—The National Measurement Laboratories
22 shall conduct research under this subsection that in-
23 cludes—

24 “(A) developing material and manufac-
25 turing processes which are designed for energy

1 efficiency and reduced greenhouse gas emissions
2 into the environment;

3 “(B) developing chemical processes to be
4 used by industry that, compared to similar
5 processes in commercial use, result in reduced
6 emissions of greenhouse gases or increased se-
7 questration of greenhouse gases; and

8 “(C) enhancing building performance with
9 a focus in developing standards or tools which
10 will help incorporate low- or no-emission tech-
11 nologies into building designs.

12 “(3) STANDARDS AND TOOLS.—The National
13 Measurement Laboratories shall develop standards
14 and tools under this subsection that include software
15 to assist designers in selecting alternate building
16 materials, performance data on materials, artificial
17 intelligence-aided design procedures for building sub-
18 systems and ‘smart buildings’, and improved test
19 methods and rating procedures for evaluating the
20 energy performance of residential and commercial
21 appliances and products.

22 “(d) NATIONAL VOLUNTARY LABORATORY ACCREDI-
23 TATION PROGRAM.—The Director shall utilize the Na-
24 tional Voluntary Laboratory Accreditation Program under
25 this section to establish a program to include specific cali-

1 bration or test standards and related methods and proto-
2 cols assembled to satisfy the unique needs for accredita-
3 tion in measuring the production of greenhouse gases. In
4 carrying out this subsection the Director may cooperate
5 with other departments and agencies of the Federal Gov-
6 ernment, State and local governments, and private organi-
7 zations.”.

8 **SEC. 107. TECHNOLOGY DEVELOPMENT AND DIFFUSION.**

9 The Director of the National Institute of Standards
10 and Technology, through the Manufacturing Extension
11 Partnership Program, may develop a program to promote
12 the use, by the more than 380,000 small manufacturers,
13 of technologies and techniques that result in reduced emis-
14 sions of greenhouse gases or increased sequestration of
15 greenhouse gases.

16 **SEC. 108. AGRICULTURAL OUTREACH PROGRAM.**

17 (a) IN GENERAL.—The Secretary of Agriculture, act-
18 ing through the Global Change Program Office and in
19 consultation with the heads of other appropriate depart-
20 ments and agencies, shall establish the Climate Change
21 Education and Outreach Initiative Program to educate,
22 and reach out to, agricultural organizations and individual
23 farmers on global climate change.

24 (b) PROGRAM COMPONENTS.—The program—

1 (1) shall be designed to ensure that agricultural
2 organizations and individual farmers receive detailed
3 information about—

4 (A) the potential impact of climate change
5 on their operations and well-being;

6 (B) market-driven economic opportunities
7 that may come from storing carbon in soils and
8 vegetation, including emerging private sector
9 markets for carbon storage; and

10 (C) techniques for measuring, monitoring,
11 verifying, and inventorying such carbon capture
12 efforts;

13 (2) may incorporate existing efforts in any area
14 of activity referenced in paragraph (1) or in related
15 areas of activity;

16 (3) shall provide—

17 (A) outreach materials to interested par-
18 ties;

19 (B) workshops; and

20 (C) technical assistance; and

21 (4) may include the creation and development
22 of regional centers on climate change or coordination
23 with existing centers (including such centers within
24 NRCS and the Cooperative State Research Edu-
25 cation and Extension Service).

1 **SEC. 109. NOAA REPORT ON CLIMATE CHANGE EFFECTS;**
2 **PREPARATION ASSISTANCE.**

3 The Coastal Zone Management Act of 1972 (16
4 U.S.C. 1451 et seq.) is amended by adding at the end
5 the following:

6 “REPORT ON EFFECTS OF CLIMATE CHANGE

7 “In General

8 “SEC. 320. (a) The Secretary shall report to the Con-
9 gress not later than 2 years after the date of enactment
10 of this section, and every 5 years thereafter, on the pos-
11 sible and projected impacts of climate change on—

12 “(1) oceanic and coastal ecosystems, including
13 marine fish and wildlife and their habitat, and the
14 commercial and recreational fisheries and tourism
15 industries associated with them; and

16 “(2) coastal communities, including private resi-
17 dential and commercial development and public in-
18 frastructure in the coastal zone.

19 “Contents

20 “(b) Each report under this section shall include in-
21 formation regarding—

22 “(1) the impacts that may be due to climate
23 change that have occurred as of the date of the sub-
24 mission of the report; and

25 “(2) the projected future impacts of climate
26 change.

1 “Impacts

2 “(c) The impacts reported on under subsection (b)
3 shall include any—

4 “(1) increases in sea level;

5 “(2) increases in storm activity and intensity;

6 “(3) increases in floods, droughts, and other ex-
7 tremes of weather;

8 “(4) increases in the temperature of the air and
9 the water on oceanic and coastal ecosystems, with a
10 particular focus on vulnerable fisheries and eco-
11 systems; and

12 “(5) changes in the acidity of the ocean surface
13 associated with an increase in concentration of car-
14 bon dioxide in the atmosphere.

15 “CLIMATE CHANGE PREPARATION ASSISTANCE

16 “In General

17 “SEC. 321. (a) The Secretary shall provide technical
18 assistance to each coastal state that has an approved
19 coastal zone management plan under this title, to assist
20 such States in preparing persons living within their coastal
21 zones to adapt to climate change.

22 “Identification of Affected Areas and Adaptations

23 “(b) In carrying out this section, the Secretary
24 shall—

1 “(1) identify the projected impacts of climate
2 change to which persons located in coastal zones
3 may need to adapt, including—

4 “(A) increases in sea level;

5 “(B) increases in storm activity and inten-
6 sity; and

7 “(C) increases in floods, droughts, and
8 other extremes of weather;

9 “(2) identify the specific coastal areas of the
10 United States, and the public and private develop-
11 ment in coastal communities and the natural re-
12 sources of the coastal zone, that are vulnerable to
13 the impacts identified under paragraph (1);

14 “(3) identify the various adaptation measures
15 that may be used to protect the areas and resources
16 identified under paragraph (2) from the impacts
17 identified under paragraph (1); and

18 “(4) estimate the costs of the adaptation meas-
19 ures identified under paragraph (3).”.

20 **TITLE II—NATIONAL**
21 **GREENHOUSE GAS DATABASE**

22 **SEC. 201. NATIONAL GREENHOUSE GAS DATABASE AND**
23 **REGISTRY ESTABLISHED.**

24 (a) ESTABLISHMENT.—As soon as practicable after
25 the date of enactment of this Act, the Administrator, in

1 coordination with the Secretary, the Secretary of Energy,
2 the Secretary of Agriculture, and private sector and non-
3 governmental organizations, shall establish, operate, and
4 maintain a database, to be known as the “National Green-
5 house Gas Database”, to collect, verify, and analyze infor-
6 mation on greenhouse gas emissions by entities.

7 (b) NATIONAL GREENHOUSE GAS DATABASE COM-
8 PONENTS.—The database shall consist of—

9 (1) an inventory of greenhouse gas emissions;
10 and

11 (2) a registry of greenhouse gas emission reduc-
12 tions and increases in greenhouse gas sequestra-
13 tions.

14 (c) COMPREHENSIVE SYSTEM.—

15 (1) IN GENERAL.—Not later than 2 years after
16 the date of enactment of this Act, the Administrator
17 shall promulgate regulations to implement a com-
18 prehensive system for greenhouse gas emissions re-
19 porting, inventorying, and reductions registration.

20 (2) REQUIREMENTS.—The Administrator shall
21 ensure, to the maximum extent practicable, that—

22 (A) the comprehensive system described in
23 paragraph (1) is designed to—

1 (i) maximize completeness, trans-
2 parency, and accuracy of information re-
3 ported; and

4 (ii) minimize costs incurred by entities
5 in measuring and reporting greenhouse gas
6 emissions; and

7 (B) the regulations promulgated under
8 paragraph (1) establish procedures and proto-
9 cols necessary—

10 (i) to prevent the double-counting of
11 greenhouse gas emissions or emission re-
12 ductions reported by more than 1 reporting
13 entity;

14 (ii) to provide for corrections to errors
15 in data submitted to the database;

16 (iii) to provide for adjustment to data
17 by reporting entities that have had a sig-
18 nificant organizational change (including
19 mergers, acquisitions, and divestiture), in
20 order to maintain comparability among
21 data in the database over time;

22 (iv) to provide for adjustments to re-
23 flect new technologies or methods for
24 measuring or calculating greenhouse gas
25 emissions;

1 (v) to account for changes in registra-
2 tion of ownership of emission reductions
3 resulting from a voluntary private trans-
4 action between reporting entities; and

5 (vi) to clarify the responsibility for re-
6 porting in the case of any facility owned or
7 controlled by more than 1 entity.

8 (3) SERIAL NUMBERS.—Through regulations
9 promulgated under paragraph (1), the Administrator
10 shall develop and implement a system that pro-
11 vides—

12 (A) for the verification of submitted emis-
13 sions reductions registered under section 203;

14 (B) for the provision of unique serial num-
15 bers to identify the registered emission reduc-
16 tions made by an entity relative to the baseline
17 of the entity;

18 (C) for the tracking of the registered re-
19 ductions associated with the serial numbers;
20 and

21 (D) for such action as may be necessary to
22 prevent counterfeiting of the registered reduc-
23 tions.

1 **SEC. 202. INVENTORY OF GREENHOUSE GAS EMISSIONS**
2 **FOR COVERED ENTITIES.**

3 (a) IN GENERAL.—Not later than July 1st of each
4 calendar year after 2009, each covered entity shall submit
5 to the Administrator a report that states, for the pre-
6 ceding calendar year, the entity-wide greenhouse gas emis-
7 sions (as reported at the facility level), including—

8 (1) the total quantity of direct greenhouse gas
9 emissions from stationary sources, expressed in units
10 of carbon dioxide equivalents, except those reported
11 under paragraph (3);

12 (2) the amount of petroleum products sold or
13 imported by the entity and the amount of green-
14 house gases, expressed in units of carbon dioxide
15 equivalents, that would be emitted when these prod-
16 ucts are used for transportation in the United
17 States, as determined by the Administrator under
18 section 301(b);

19 (3) the amount of hydrofluorocarbons,
20 perfluorocarbons, or sulfur hexafluoride, expressed
21 in units of carbon dioxide equivalents, that are sold
22 or imported by the entity and will ultimately be
23 emitted in the United States, as determined by the
24 Administrator under section 301(d); and

25 (4) such other categories of emissions as the
26 Administrator determines in the regulations promul-

1 gated under section 201(c)(1) may be practicable
2 and useful for the purposes of this Act, such as—

3 (A) indirect emissions from imported elec-
4 tricity, heat, and steam;

5 (B) process and fugitive emissions; and

6 (C) production or importation of green-
7 house gases.

8 (b) COLLECTION AND ANALYSIS OF DATA.—The Ad-
9 ministrator shall collect and analyze information reported
10 under subsection (a) for use under title III.

11 **SEC. 203. GREENHOUSE GAS REDUCTION REPORTING.**

12 (a) IN GENERAL.—Subject to the requirements de-
13 scribed in subsection (b)—

14 (1) a covered entity may register greenhouse
15 gas emission reductions achieved after 1990 and be-
16 fore 2010 under this section; and

17 (2) an entity that is not a covered entity may
18 register greenhouse gas emission reductions achieved
19 at any time since 1990 under this section.

20 (b) REQUIREMENTS.—

21 (1) IN GENERAL.—The requirements referred
22 to in subsection (a) are that an entity (other than
23 an entity described in paragraph (2)) shall—

24 (A) establish a baseline; and

1 (B) submit the report described in sub-
2 section (c)(1).

3 (2) REQUIREMENTS APPLICABLE TO ENTITIES
4 ENTERING INTO CERTAIN AGREEMENTS.—An entity
5 that enters into an agreement with a participant in
6 the registry for the purpose of a carbon sequestra-
7 tion project shall not be required to comply with the
8 requirements specified in paragraph (1) unless that
9 entity is required to comply with the requirements
10 by reason of an activity other than the agreement.
11 (c) REPORTS.—

12 (1) REQUIRED REPORT.—Not later than July
13 1st of the each calendar year beginning more than
14 2 years after the date of enactment of this Act, but
15 subject to paragraph (3), an entity described in sub-
16 section (a) shall submit to the Administrator a re-
17 port that states, for the preceding calendar year, the
18 entity-wide greenhouse gas emissions (as reported at
19 the facility level), including—

20 (A) the total quantity of direct greenhouse
21 gas emissions from stationary sources, ex-
22 pressed in units of carbon dioxide equivalents;

23 (B) the amount of petroleum products sold
24 or imported by the entity and the amount of
25 greenhouse gases, expressed in units of carbon

1 dioxide equivalents, that would be emitted when
2 these products are used for transportation in
3 the United States, as determined by the Admin-
4 istrator under section 301(b);

5 (C) the amount of hydrofluorocarbons,
6 perfluorocarbons, or sulfur hexafluoride, ex-
7 pressed in units of carbon dioxide equivalents,
8 that are sold or imported by the entity and will
9 ultimately be emitted in the United States, as
10 determined by the Administrator under section
11 301(d); and

12 (D) such other categories of emissions as
13 the Administrator determines in the regulations
14 promulgated under section 201(c)(1) may be
15 practicable and useful for the purposes of this
16 Act, such as—

17 (i) indirect emissions from imported
18 electricity, heat, and steam;

19 (ii) process and fugitive emissions;
20 and

21 (iii) production or importation of
22 greenhouse gases.

23 (2) VOLUNTARY REPORTING.—An entity de-
24 scribed in subsection (a) may (along with estab-

1 lishing a baseline and reporting emissions under this
2 section)—

3 (A) submit a report described in paragraph
4 (1) before the date specified in that paragraph
5 for the purposes of achieving and
6 commoditizing greenhouse gas reductions
7 through use of the registry and for other pur-
8 poses; and

9 (B) submit to the Administrator, for inclu-
10 sion in the registry, information that has been
11 verified in accordance with regulations promul-
12 gated under section 201(c)(1) and that relates
13 to—

14 (i) any activity that resulted in the
15 net reduction of the greenhouse gas emis-
16 sions of the entity or a net increase in se-
17 questration by the entity that were carried
18 out during or after 1990 and before the es-
19 tablishment of the database, verified in ac-
20 cordance with regulations promulgated
21 under section 201(c)(1), and submitted to
22 the Administrator before the date that is 4
23 years after the date of enactment of this
24 Act; and

1 (ii) with respect to the calendar year
2 preceding the calendar year in which the
3 information is submitted, any project or
4 activity that resulted in the net reduction
5 of the greenhouse gas emissions of the en-
6 tity or a net increase in net sequestration
7 by the entity.

8 (3) PROVISION OF VERIFICATION INFORMATION
9 BY REPORTING ENTITIES.—Each entity that submits
10 a report under this subsection shall provide informa-
11 tion sufficient for the Administrator to verify, in ac-
12 cordance with measurement and verification methods
13 and standards developed under section 204, that the
14 greenhouse gas report of the reporting entity—

15 (A) has been accurately reported; and

16 (B) in the case of each voluntary report
17 under paragraph (2), represents—

18 (i) actual reductions in direct green-
19 house gas emissions—

20 (I) relative to historic emission
21 levels of the entity; and

22 (II) after accounting for any in-
23 creases in indirect emissions described
24 in paragraph (1)(D)(i); or

1 (ii) actual increases in net sequestra-
2 tion.

3 (4) FAILURE TO SUBMIT REPORT.—An entity
4 that participates or has participated in the registry
5 and that fails to submit a report required under this
6 subsection shall be prohibited from using, or allow-
7 ing another entity to use, its registered emissions re-
8 ductions or increases in sequestration to satisfy the
9 requirements of section 301.

10 (5) INDEPENDENT THIRD-PARTY
11 VERIFICATION.—To meet the requirements of this
12 section and section 204, an entity that is required
13 to submit a report under this section may—

14 (A) obtain independent third-party
15 verification; and

16 (B) present the results of the third-party
17 verification to the Administrator.

18 (6) AVAILABILITY OF DATA.—

19 (A) IN GENERAL.—The Administrator
20 shall ensure that information in the database
21 is—

22 (i) published; and

23 (ii) accessible to the public, including
24 in electronic format on the Internet.

1 (B) EXCEPTION.—Subparagraph (A) shall
2 not apply in any case in which the Adminis-
3 trator determines that publishing or otherwise
4 making available information described in that
5 subparagraph poses a risk to national security
6 or discloses confidential business information
7 that can not be derived from information that
8 is otherwise publicly available and that would
9 cause competitive harm if published.

10 (7) DATA INFRASTRUCTURE.—The Adminis-
11 trator shall ensure, to the maximum extent prac-
12 ticable, that the database uses, and is integrated
13 with, Federal, State, and regional greenhouse gas
14 data collection and reporting systems in effect as of
15 the date of enactment of this Act.

16 (8) ADDITIONAL ISSUES TO BE CONSIDERED.—
17 In promulgating the regulations under section
18 201(c)(1) and implementing the database, the Ad-
19 ministrators shall take into consideration a broad
20 range of issues involved in establishing an effective
21 database, including—

22 (A) the data and information systems and
23 measures necessary to identify, track, and
24 verify greenhouse gas emissions in a manner

1 that will encourage private sector trading and
2 exchanges;

3 (B) the greenhouse gas reduction and se-
4 questration measurement and estimation meth-
5 ods and standards applied in other countries, as
6 applicable or relevant;

7 (C) the extent to which available fossil
8 fuels, greenhouse gas emissions, and greenhouse
9 gas production and importation data are ade-
10 quate to implement the database; and

11 (D) the differences in, and potential
12 uniqueness of, the facilities, operations, and
13 business and other relevant practices of persons
14 and entities in the private and public sectors
15 that may be expected to participate in the data-
16 base.

17 (d) ANNUAL REPORT.—The Administrator shall pub-
18 lish an annual report that—

19 (1) describes the total greenhouse gas emissions
20 and emission reductions reported to the database
21 during the year covered by the report;

22 (2) provides entity-by-entity and sector-by-sec-
23 tor analyses of the emissions and emission reduc-
24 tions reported;

1 (3) describes the atmospheric concentrations of
2 greenhouse gases;

3 (4) provides a comparison of current and past
4 atmospheric concentrations of greenhouse gases; and

5 (5) describes the activity during the year cov-
6 ered by the period in the trading of greenhouse gas
7 emission allowances.

8 **SEC. 204. MEASUREMENT AND VERIFICATION.**

9 (a) STANDARDS.—

10 (1) IN GENERAL.—Not later than 1 year after
11 the date of enactment of this Act, the Secretary
12 shall establish by rule, in coordination with the Ad-
13 ministrator, the Secretary of Energy, and the Sec-
14 retary of Agriculture, comprehensive measurement
15 and verification methods and standards to ensure a
16 consistent and technically accurate record of green-
17 house gas emissions, emission reductions, sequestra-
18 tion, and atmospheric concentrations for use in the
19 registry.

20 (2) REQUIREMENTS.—The methods and stand-
21 ards established under paragraph (1) shall include—

22 (A) a requirement that a covered entity
23 use a continuous emissions monitoring system,
24 or another system of measuring or estimating
25 emissions that is determined by the Secretary

1 to provide information with precision, reli-
2 ability, accessibility, and timeliness similar to
3 that provided by a continuous emissions moni-
4 toring system where technologically feasible;

5 (B) establishment of standardized meas-
6 urement and verification practices for reports
7 made by all entities participating in the reg-
8 istry, taking into account—

9 (i) protocols and standards in use by
10 entities requiring or desiring to participate
11 in the registry as of the date of develop-
12 ment of the methods and standards under
13 paragraph (1);

14 (ii) boundary issues, such as leakage;

15 (iii) avoidance of double counting of
16 greenhouse gas emissions and emission re-
17 ductions;

18 (iv) protocols to prevent a covered en-
19 tity from avoiding the requirements of this
20 Act by reorganization into multiple entities
21 that are under common control; and

22 (v) such other factors as the Sec-
23 retary, in consultation with the Adminis-
24 trator, determines to be appropriate;

25 (C) establishment of methods of—

1 (i) estimating greenhouse gas emis-
2 sions, for those cases in which the Sec-
3 retary determines that methods of moni-
4 toring, measuring or estimating such emis-
5 sions with precision, reliability, accessi-
6 bility, and timeliness similar to that pro-
7 vided by a continuous emissions monitoring
8 system are not technologically feasible at
9 present; and

10 (ii) reporting the accuracy of such es-
11 timations;

12 (D) establishment of measurement and
13 verification standards applicable to actions
14 taken to reduce, avoid, or sequester greenhouse
15 gas emissions;

16 (E) in coordination with the Secretary of
17 Agriculture, standards to measure the results of
18 the use of carbon sequestration and carbon re-
19 capture technologies, including—

20 (i) soil carbon sequestration practices;

21 and

22 (ii) forest preservation and reforest-
23 ation activities that adequately address the
24 issues of permanence, leakage, and
25 verification;

1 (F) establishment of such other measure-
2 ment and verification standards as the Sec-
3 retary, in consultation with the Secretary of Ag-
4 riculture, the Administrator, and the Secretary
5 of Energy, determines to be appropriate;

6 (G) establishment of standards for obtain-
7 ing the Secretary's approval of the suitability of
8 geological storage sites that include evaluation
9 of both the geology of the site and the entity's
10 capacity to manage the site; and

11 (H) establishment of other features that,
12 as determined by the Secretary, will allow enti-
13 ties to adequately establish a fair and reliable
14 measurement and reporting system.

15 (b) REVIEW AND REVISION.—The Secretary shall pe-
16 riodically review, and revise as necessary, the methods and
17 standards developed under subsection (a).

18 (c) PUBLIC PARTICIPATION.—The Secretary shall—

19 (1) make available to the public for comment,
20 in draft form and for a period of at least 90 days,
21 the methods and standards developed under sub-
22 section (a); and

23 (2) after the 90-day period referred to in para-
24 graph (1), in coordination with the Secretary of En-
25 ergy, the Secretary of Agriculture, and the Adminis-

1 trator, adopt the methods and standards developed
2 under subsection (a) for use in implementing the
3 database.

4 (d) EXPERTS AND CONSULTANTS.—

5 (1) IN GENERAL.—The Secretary may obtain
6 the services of experts and consultants in the private
7 and nonprofit sectors in accordance with section
8 3109 of title 5, United States Code, in the areas of
9 greenhouse gas measurement, certification, and
10 emission trading.

11 (2) AVAILABLE ARRANGEMENTS.—In obtaining
12 any service described in paragraph (1), the Sec-
13 retary may use any available grant, contract, cooper-
14 ative agreement, or other arrangement authorized by
15 law.

16 **TITLE III—MARKET-DRIVEN**
17 **GREENHOUSE GAS REDUCTIONS**
18 **Subtitle A—Emission Reduction**
19 **Requirements; Use of Tradeable**
20 **Allowances**

21 **SEC. 301. COVERED ENTITIES MUST SUBMIT ALLOWANCES**
22 **FOR EMISSIONS.**

23 (a) IN GENERAL.—Beginning with calendar year
24 2010—

1 (1) each covered entity in the electric genera-
2 tion, industrial, and commercial sectors shall submit
3 to the Administrator one tradeable allowance for
4 every metric ton of greenhouse gases, measured in
5 units of carbon dioxide equivalents, that it emits
6 from stationary sources, except those described in
7 paragraph (2);

8 (2) each producer or importer of
9 hydrofluorocarbons, perfluorocarbons, or sulfur
10 hexafluoride that is a covered entity shall submit to
11 the Administrator one tradeable allowance for every
12 metric ton of hydrofluorocarbons, perfluorocarbons,
13 or sulfur hexafluoride, measured in units of carbon
14 dioxide equivalents, that it produces or imports and
15 that will ultimately be emitted in the United States,
16 as determined by the Administrator under sub-
17 section (d) and

18 (3) each petroleum refiner or importer that is
19 a covered entity shall submit one tradeable allowance
20 for every unit of petroleum product it sells that will
21 produce one metric ton of greenhouse gases, meas-
22 ured in units of carbon dioxide equivalents, as deter-
23 mined by the Administrator under subsection (b),
24 when used for transportation.

1 (b) DETERMINATION OF TRANSPORTATION SECTOR
2 AMOUNT.—For the transportation sector, the Adminis-
3 trator shall determine the amount of greenhouse gases,
4 measured in units of carbon dioxide equivalents, that will
5 be emitted when petroleum products are used for trans-
6 portation.

7 (c) EXCEPTION FOR CERTAIN DEPOSITED EMIS-
8 SIONS.—Notwithstanding subsection (a), a covered entity
9 is not required to submit a tradeable allowance for any
10 amount of greenhouse gas that would otherwise have been
11 emitted from a facility under the ownership or control of
12 that entity if—

13 (1) the emission is deposited in a geological
14 storage facility approved by the Administrator de-
15 scribed in section 204(a)(2)(G); and

16 (2) the entity agrees to submit tradeable allow-
17 ances for any portion of the deposited emission that
18 is subsequently emitted from that facility.

19 (d) DETERMINATION OF HYDROFLUOROCARBON,
20 PERFLUOROCARBON, AND SULFUR HEXAFLUORIDE
21 AMOUNT.—The Administrator shall determine the
22 amounts of hydrofluorocarbons, perfluorocarbons, or sul-
23 fur hexafluoride, measured in units of carbon dioxide
24 equivalents, that will be deemed to be emitted for purposes
25 of this Act.

1 **SEC. 302. COMPLIANCE.**

2 (a) IN GENERAL.—

3 (1) SOURCE OF TRADEABLE ALLOWANCES
4 USED.—A covered entity may use a tradeable allow-
5 ance to meet the requirements of this section with-
6 out regard to whether the tradeable allowance was
7 allocated to it under subtitle B or acquired from an-
8 other entity or the Climate Change Credit Corpora-
9 tion established under section 351.

10 (2) VERIFICATION BY ADMINISTRATOR.—At
11 various times during each year, the Administrator
12 shall determine whether each covered entity has met
13 the requirements of this section. In making that de-
14 termination, the Administrator shall—

15 (A) take into account the tradeable allow-
16 ances submitted by the covered entity to the
17 Administrator; and

18 (B) retire the serial number assigned to
19 each such tradeable allowance.

20 (b) ALTERNATIVE MEANS OF COMPLIANCE.—For the
21 years after 2010, a covered entity may satisfy up to 15
22 percent of its total allowance submission requirement
23 under this section by—

24 (1) submitting tradeable allowances from an-
25 other nation's market in greenhouse gas emissions
26 if—

1 (A) the Secretary determines that the
2 other nation's system for trading in greenhouse
3 gas emissions is complete, accurate, and trans-
4 parent and reviews that determination at least
5 once every 5 years;

6 (B) the other nation has adopted enforce-
7 able limits on its greenhouse gas emissions
8 which the tradeable allowances were issued to
9 implement; and

10 (C) the covered entity certifies that the
11 tradeable allowance has been retired unused in
12 the other nation's market;

13 (2) submitting a registered net increase in se-
14 questration, as registered in the database, adjusted,
15 if necessary, to comply with the accounting stand-
16 ards and methods established under section 371;

17 (3) submitting a greenhouse gas emissions re-
18 duction (other than a registered net increase in se-
19 questration) that was registered in the database by
20 a person that is not a covered entity; or

21 (4) submitting credits obtained from the Ad-
22 ministrator under section 303.

23 (c) DEDICATED PROGRAM FOR SEQUESTRATION IN
24 AGRICULTURAL SOILS.—If a covered entity chooses to
25 satisfy 15 percent of its total allowance submission re-

1 requirements under the provisions of subsection (b), it shall
2 satisfy up to 1.5 percent of its total allowance submission
3 requirement by submitting registered net increases in se-
4 questration in agricultural soils, as registered in the data-
5 base, adjusted, if necessary, to comply with the accounting
6 standards and methods established under section 371.

7 **SEC. 303. BORROWING AGAINST FUTURE REDUCTIONS.**

8 (a) IN GENERAL.—The Administrator shall establish
9 a program under which a covered entity may—

10 (1) receive a credit in the current calendar year
11 for anticipated reductions in emissions in a future
12 calendar year; and

13 (2) use the credit in lieu of a tradeable allow-
14 ance to meet the requirements of this Act for the
15 current calendar year, subject to the limitation im-
16 posed by section 302(b).

17 (b) DETERMINATION OF TRADEABLE ALLOWANCE
18 CREDITS.—The Administrator may make credits available
19 under subsection (a) only for anticipated reductions in
20 emissions that—

21 (1) are attributable to the realization of capital
22 investments in equipment, the construction, recon-
23 struction, or acquisition of facilities, or the deploy-
24 ment of new technologies—

1 (A) for which the covered entity has exe-
2 cuted a binding contract and secured, or ap-
3 plied for, all necessary permits and operating or
4 implementation authority;

5 (B) that will not become operational within
6 the current calendar year; and

7 (C) that will become operational and begin
8 to reduce emissions from the covered entity
9 within 5 years after the year in which the credit
10 is used; and

11 (2) will be realized within 5 years after the year
12 in which the credit is used.

13 (c) CARRYING COST.—If a covered entity uses a cred-
14 it under this section to meet the requirements of this Act
15 for a calendar year (referred to as the use year), the
16 tradeable allowance requirement for the year from which
17 the credit was taken (referred to as the source year) shall
18 be increased by an amount equal to—

19 (1) 10 percent for each credit borrowed from
20 the source year; multiplied by

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

23 (d) MAXIMUM BORROWING PERIOD.—A credit from
24 a year beginning more than 5 years after the current year

1 may not be used to meet the requirements of this Act for
2 the current year.

3 (e) **FAILURE TO ACHIEVE REDUCTIONS GENERATING**
4 **CREDIT.**—If a covered entity that uses a credit under this
5 section fails to achieve the anticipated reduction for which
6 the credit was granted for the year from which the credit
7 was taken, then—

8 (1) the covered entity’s requirements under this
9 Act for that year shall be increased by the amount
10 of the credit, plus the amount determined under
11 subsection (c);

12 (2) any tradeable allowances submitted by the
13 covered entity for that year shall be counted first
14 against the increase in those requirements; and

15 (3) the covered entity may not use credits
16 under this section to meet the increased require-
17 ments.

18 **SEC. 304. OTHER USES OF TRADEABLE ALLOWANCES.**

19 (a) **IN GENERAL.**—Tradeable allowances may be sold,
20 exchanged, purchased, retired, or used as provided in this
21 section.

22 (b) **INTERSECTOR TRADING.**—Covered entities may
23 purchase or otherwise acquire tradeable allowances from
24 other covered sectors to satisfy the requirements of section
25 301.

1 (c) CLIMATE CHANGE CREDIT ORGANIZATION.—The
2 Climate Change Credit Corporation established under sec-
3 tion 351 may sell tradeable allowances allocated to it
4 under section 332(a)(2) to any covered entity or to any
5 investor, broker, or dealer in such tradeable allowances.
6 The Climate Change Credit Corporation shall use all pro-
7 ceeds from such sales in accordance with the provisions
8 of section 352.

9 (d) BANKING OF TRADEABLE ALLOWANCES.—Not-
10 withstanding the requirements of section 301, a covered
11 entity that has more than a sufficient amount of tradeable
12 allowances to satisfy the requirements of section 301, may
13 refrain from submitting a tradeable allowance to satisfy
14 the requirements in order to sell, exchange, or use the
15 tradeable allowance in the future.

16 **SEC. 305. EXEMPTION OF SOURCE CATEGORIES.**

17 (a) IN GENERAL.—The Administrator may grant an
18 exemption from the requirements of this Act to a source
19 category if the Administrator determines, after public no-
20 tice and comment, that it is not feasible to measure or
21 estimate emissions from that source category, until such
22 time as measurement or estimation becomes feasible.

23 (b) REDUCTION OF LIMITATIONS.—If the Adminis-
24 trator exempts a source category under subsection (a), the
25 Administrator shall also reduce the total tradeable allow-

1 ances under section 331(a)(1) by the amount of green-
2 house gas emissions that the exempted source category
3 emitted in calendar year 2000, as identified in the 2000
4 Inventory.

5 (c) LIMITATION ON EXEMPTION.—The Administrator
6 may not grant an exemption under subsection (a) to car-
7 bon dioxide produced from fossil fuel.

8 **Subtitle B—Establishment and** 9 **Allocation of Tradeable Allowances**

10 **SEC. 331. ESTABLISHMENT OF TRADEABLE ALLOWANCES.**

11 (a) IN GENERAL.—The Administrator shall promul-
12 gate regulations to establish tradeable allowances, denomi-
13 nated in units of carbon dioxide equivalents, for calendar
14 years beginning after 2009, equal to—

15 (1) 5896 million metric tons, measured in units
16 of carbon dioxide equivalents, reduced by

17 (2) the amount of emissions of greenhouse
18 gases in calendar year 2000 from non-covered enti-
19 ties.

20 (b) SERIAL NUMBERS.—The Administrator shall as-
21 sign a unique serial number to each tradeable allowance
22 established under subsection (a), and shall take such ac-
23 tion as may be necessary to prevent counterfeiting of
24 tradeable allowances.

1 (c) NATURE OF TRADEABLE ALLOWANCES.—A
2 tradeable allowance is not a property right, and nothing
3 in this title or any other provision of law limits the author-
4 ity of the United States to terminate or limit a tradeable
5 allowance.

6 (d) NON-COVERED ENTITY.—In this section:

7 (1) IN GENERAL.—The term “non-covered enti-
8 ty” means an entity that—

9 (A) owns or controls a source of green-
10 house gas emissions in the electric power, in-
11 dustrial, or commercial sector of the United
12 States economy (as defined in the Inventory),
13 refines or imports petroleum products for use in
14 transportation, or produces or imports
15 hydrofluorocarbons, perfluorocarbons, or sulfur
16 hexafluoride; and

17 (B) is not a covered entity.

18 (2) EXCEPTION.—Notwithstanding paragraph
19 (1), an entity that is a covered entity for any cal-
20 endar year beginning after 2009 shall not be consid-
21 ered to be a non-covered entity for purposes of sub-
22 section (a) only because it emitted, or its products
23 would have emitted, 10,000 metric tons or less of
24 greenhouse gas, measured in units of carbon dioxide
25 equivalents, in the year 2000.

1 **SEC. 332. DETERMINATION OF TRADEABLE ALLOWANCE**
2 **ALLOCATIONS.**

3 (a) IN GENERAL.—The Secretary shall determine—

4 (1) the amount of tradeable allowances to be al-
5 located to each covered sector of that sector's allot-
6 ments; and

7 (2) the amount of tradeable allowances to be al-
8 located to the Climate Change Credit Corporation
9 established under section 351.

10 (b) ALLOCATION FACTORS.—In making the deter-
11 mination required by subsection (a), the Secretary shall
12 consider—

13 (1) the distributive effect of the allocations on
14 household income and net worth of individuals;

15 (2) the impact of the allocations on corporate
16 income, taxes, and asset value;

17 (3) the impact of the allocations on income lev-
18 els of consumers and on their energy consumption;

19 (4) the effects of the allocations in terms of eco-
20 nomic efficiency;

21 (5) the ability of covered entities to pass
22 through compliance costs to their customers;

23 (6) the degree to which the amount of alloca-
24 tions to the covered sectors should decrease over
25 time; and

1 (7) the need to maintain the international com-
2 petitiveness of United States manufacturing and
3 avoid the additional loss of United States manufac-
4 turing jobs.

5 (c) ALLOCATION RECOMMENDATIONS AND IMPLE-
6 MENTATION.—Before allocating or providing tradeable al-
7 lowances under subsection (a) and within 24 months after
8 the date of enactment of this Act, the Secretary shall sub-
9 mit the determinations under subsection (a) to the Senate
10 Committee on Commerce, Science, and Transportation,
11 the Senate Committee on Environment and Public Works,
12 the House of Representatives Committee on Science, and
13 the House of Representatives Committee on Energy and
14 Commerce. The Secretary’s determinations under sub-
15 section (a)(1), including the allocations and provision of
16 tradeable allowances pursuant to that determination, are
17 deemed to be a major rule (as defined in section 804(2)
18 of title 5, United States Code), and subject to the provi-
19 sions of chapter 8 of that title.

20 **SEC. 333. ALLOCATION OF TRADEABLE ALLOWANCES.**

21 (a) IN GENERAL.—Beginning with calendar year
22 2010 and after taking into account any initial allocations
23 under section 334, the Administrator shall—

24 (1) allocate to each covered sector that sector’s
25 allotments determined by the Administrator under

1 section 332 (adjusted for any such initial allocations
2 and the allocation to the Climate Change Credit
3 Corporation established under section 351); and

4 (2) allocate to the Climate Change Credit Cor-
5 poration established under section 351 the tradeable
6 allowances allocable to that Corporation.

7 (b) INTRASECTORIAL ALLOTMENTS.—The Adminis-
8 trator shall, by regulation, establish a process for the allo-
9 cation of tradeable allowances under this section, without
10 cost to covered entities, that will—

11 (1) encourage investments that increase the ef-
12 ficiency of the processes that produce greenhouse
13 gas emissions;

14 (2) minimize the costs to the Government of al-
15 locating the tradeable allowances;

16 (3) not penalize a covered entity for emissions
17 reductions made before 2010 and registered with the
18 database; and

19 (4) provide sufficient allocation for new en-
20 trants into the sector.

21 (c) POINT SOURCE ALLOCATION.—The Adminis-
22 trator shall allocate the tradeable allowances for the elec-
23 tricity generation, industrial, and commercial sectors to
24 the entities owning or controlling the point sources of
25 greenhouse gas emissions within that sector.

1 (d) HYDROFLUOROCARBONS, PERFLUOROCARBONS,
2 AND SULFUR HEXAFLUORIDE.—The Administrator shall
3 allocate the tradeable allowances for producers or import-
4 ers of hydrofluorocarbons, perfluorocarbons, or sulfur
5 hexafluoride to such producers or importers.

6 (e) SPECIAL RULE FOR ALLOCATION WITHIN THE
7 TRANSPORTATION SECTOR.—The Administrator shall al-
8 locate the tradeable allowances for the transportation sec-
9 tor to petroleum refiners or importers that produce or im-
10 port petroleum products that will be used as fuel for trans-
11 portation.

12 (f) ALLOCATIONS TO RURAL ELECTRIC COOPERA-
13 TIVES.—

14 (1) IN GENERAL.—The Administrator shall
15 make the allocations described in paragraph (2) each
16 year at no cost. The allocations shall be offset from
17 the allowances allocated to the Climate Change
18 Credit Corporation.

19 (2) RURAL ELECTRIC COOPERATIVES.—For
20 each electric generating unit that is owned or oper-
21 ated by a rural electric cooperative, the Adminis-
22 trator shall allocate allowances in an amount equal
23 to the greenhouse gas emissions of each such unit in
24 2000, plus an amount equal to the average emis-
25 sions growth expected for all such units.

1 **SEC. 334. ENSURING TARGET ADEQUACY.**

2 (a) IN GENERAL.—Beginning 2 years after the date
3 of enactment of this Act, the Under Secretary of Com-
4 merce for Oceans and Atmosphere shall review the allow-
5 ances established by section 331 no less frequently than
6 biennially—

7 (1) to re-evaluate the levels established by that
8 section, after taking into account the best available
9 science and the most currently available data, and

10 (2) to re-evaluate the environmental and public
11 health impacts of specific concentration levels of
12 greenhouse gases,

13 to determine whether the allowances established by sub-
14 section (a) continue to be consistent with the objective of
15 the United Nations' Framework Convention on Climate
16 Change of stabilizing levels of greenhouse gas emissions
17 at a level that will prevent dangerous anthropogenic inter-
18 ference with the climate system.

19 (b) REVIEW OF 2010 LEVELS.—The Under Secretary
20 shall specifically review in 2008 the level established under
21 section 331(a)(1), and transmit a report on his reviews,
22 together with any recommendations, including legislative
23 recommendations, for modification of the levels, to the
24 Senate Committee on Commerce, Science, and Transpor-
25 tation, the Senate Committee on Environment and Public
26 Works, the House of Representatives Committee on

1 Science, and the House of Representatives Committee on
2 Energy and Commerce.

3 **SEC. 335. INITIAL ALLOCATIONS FOR EARLY PARTICIPA-**
4 **TION AND ACCELERATED PARTICIPATION.**

5 Before making any allocations under section 333, the
6 Administrator shall allocate—

7 (1) to any covered entity an amount of
8 tradeable allowances equivalent to the amount of
9 greenhouse gas emissions reductions registered by
10 that covered entity in the national greenhouse gas
11 database if—

12 (A) the covered entity has requested to use
13 the registered reduction in the year of alloca-
14 tion;

15 (B) the reduction was registered prior to
16 2010; and

17 (C) the Administrator retires the unique
18 serial number assigned to the reduction under
19 section 201(c)(3); and

20 (2) to any covered entity that has entered into
21 an accelerated participation agreement under section
22 336, such tradeable allowances as the Administrator
23 has determined to be appropriate under that section.

1 **SEC. 336. BONUS FOR ACCELERATED PARTICIPATION.**

2 (a) IN GENERAL.—If a covered entity executes an
3 agreement with the Administrator under which it agrees
4 to reduce its level of greenhouse gas emissions to a level
5 no greater than the level of its greenhouse gas emissions
6 for calendar year 1990 by the year 2010, then, for the
7 6-year period beginning with calendar year 2010, the Ad-
8 ministrator shall—

9 (1) provide additional tradeable allowances to
10 that entity when allocating allowances under section
11 334 in order to recognize the additional emissions
12 reductions that will be required of the covered entity;

13 (2) allow that entity to satisfy 20 percent of its
14 requirements under section 301 by—

15 (A) submitting tradeable allowances from
16 another nation's market in greenhouse gas
17 emissions under the conditions described in sec-
18 tion 302(b)(1);

19 (B) submitting a registered net increase in
20 sequestration, as registered in the National
21 Greenhouse Gas Database established under
22 section 201, and as adjusted by the appropriate
23 sequestration discount rate established under
24 section 371; or

25 (C) submitting a greenhouse gas emission
26 reduction (other than a registered net increase

1 in sequestration) that was registered in the Na-
2 tional Greenhouse Gas Database by a person
3 that is not a covered entity.

4 (b) TERMINATION.—An entity that executes an
5 agreement described in subsection (a) may terminate the
6 agreement at any time.

7 (c) FAILURE TO MEET COMMITMENT.—If an entity
8 that executes an agreement described in subsection (a)
9 fails to achieve the level of emissions to which it committed
10 by calendar year 2010—

11 (1) its requirements under section 301 shall be
12 increased by the amount of any tradeable allowances
13 provided to it under subsection (a)(1); and

14 (2) any tradeable allowances submitted there-
15 after shall be counted first against the increase in
16 those requirements.

17 **Subtitle C—Climate Change Credit** 18 **Corporation**

19 **SEC. 351. ESTABLISHMENT.**

20 (a) IN GENERAL.—The Climate Change Credit Cor-
21 poration is established as a nonprofit corporation without
22 stock. The Corporation shall not be considered to be an
23 agency or establishment of the United States Government.

24 (b) APPLICABLE LAWS.—The Corporation shall be
25 subject to the provisions of this title and, to the extent

1 consistent with this title, to the District of Columbia Busi-
2 ness Corporation Act.

3 (c) BOARD OF DIRECTORS.—The Corporation shall
4 have a board of directors of 5 individuals who are citizens
5 of the United States, of whom 1 shall be elected annually
6 by the board to serve as chairman. No more than 3 mem-
7 bers of the board serving at any time may be affiliated
8 with the same political party. The members of the board
9 shall be appointed by the President of the United States,
10 by and with the advice and consent of the Senate and shall
11 serve for terms of 5 years.

12 **SEC. 352. PURPOSES AND FUNCTIONS.**

13 (a) TRADING.—The Corporation—

14 (1) shall receive and manage tradeable allow-
15 ances allocated to it under section 333(a)(2); and

16 (2) shall buy and sell tradeable allowances,
17 whether allocated to it under that section or ob-
18 tained by purchase, trade, or donation from other
19 entities; but

20 (3) may not retire tradeable allowances unused.

21 (b) USE OF TRADEABLE ALLOWANCES AND PRO-
22 CEEDS.—

23 (1) IN GENERAL.—The Corporation shall use
24 the tradeable allowances, and proceeds derived from
25 its trading activities in tradeable allowances, to re-

1 duce costs borne by consumers as a result of the
2 greenhouse gas reduction requirements of this Act.

3 The reductions—

4 (A) may be obtained by buy-down, subsidy,
5 negotiation of discounts, consumer rebates, or
6 otherwise;

7 (B) shall be, as nearly as possible, equi-
8 tably distributed across all regions of the
9 United States; and

10 (C) may include arrangements for pref-
11 erential treatment to consumers who can least
12 afford any such increased costs.

13 (2) TRANSITION ASSISTANCE TO DISLOCATED
14 WORKERS AND COMMUNITIES.—The Corporation
15 shall allocate a percentage of the proceeds derived
16 from its trading activities in tradeable allowances to
17 provide transition assistance to dislocated workers
18 and communities. Transition assistance may take
19 the form of—

20 (A) grants to employers, employer associa-
21 tions, and representatives of employees—

22 (i) to provide training, adjustment as-
23 sistance, and employment services to dis-
24 located workers; and

1 (ii) to make income-maintenance and
2 needs-related payments to dislocated work-
3 ers; and

4 (B) grants to State and local governments
5 to assist communities in attracting new employ-
6 ers or providing essential local government serv-
7 ices.

8 (3) PHASE-OUT OF TRANSITION ASSISTANCE.—
9 The percentage allocated by the Corporation under
10 paragraph (2)—

11 (A) shall be 20 percent for 2010;

12 (B) shall be reduced by 2 percentage
13 points each year thereafter; and

14 (C) may not be reduced below zero.

15 (4) TECHNOLOGY DEPLOYMENT PROGRAMS.—

16 The Corporation shall establish and carry out a pro-
17 gram, through direct grants, revolving loan pro-
18 grams, or other financial measures, to provide sup-
19 port for the deployment of technology to assist in
20 compliance with this Act by distributing the pro-
21 ceeds from no less than 10 percent of the total al-
22 lowances allocated to it. The support shall include
23 the following:

24 (A) COAL GASIFICATION COMBINED-CYCLE
25 AND GEOLOGICAL CARBON STORAGE PRO-

1 GRAM.—The Corporation shall establish and
2 carry out a program, through direct grants, to
3 provide incentives for the repowering of existing
4 facilities or construction of new facilities pro-
5 ducing electricity or other products from coal
6 gasification combined-cycle plants that capture
7 and geologically store at least 90 percent of the
8 carbon dioxide produced at the facility in ac-
9 cordance with requirements established by the
10 Administrator to ensure the permanence of the
11 storage and that such storage will not cause or
12 contribute to significant adverse effects on pub-
13 lic health or the environment. The Corporation
14 shall ensure that no less than 20 percent of the
15 funding under this program is distributed to
16 rural electric cooperatives.

17 (B) AGRICULTURAL PROGRAMS.—The Cor-
18 poration shall establish and carry out a pro-
19 gram, through direct grants, revolving loan pro-
20 grams, or other financial measures, to provide
21 incentives for greenhouse gas emissions reduc-
22 tions or net increases in greenhouse gas seques-
23 tration on agricultural lands. The program shall
24 include incentives for—

- 1 (i) production of wind energy on agri-
2 cultural lands;
- 3 (ii) agricultural management practices
4 that achieve verified, incremental increases
5 in net carbon sequestration, in accordance
6 with the requirements established by the
7 Administrator under section 371; and
- 8 (iii) production of renewable fuels
9 that, after consideration of the energy
10 needed to produce such fuels, result in a
11 net reduction in greenhouse gas emissions.

12 **Subtitle D—Sequestration**

13 **Accounting; Penalties**

14 **SEC. 371. SEQUESTRATION ACCOUNTING.**

15 (a) SEQUESTRATION ACCOUNTING.—If a covered en-
16 tity uses a registered net increase in sequestration to sat-
17 isfy the requirements of section 301 for any year, that
18 covered entity shall submit information to the Adminis-
19 trator every 5 years thereafter sufficient to allow the Ad-
20 ministrator to determine, using the methods and stand-
21 ards created under section 204, whether that net increase
22 in sequestration still exists. Unless the Administrator de-
23 termines that the net increase in sequestration continues
24 to exist, the covered entity shall offset any loss of seques-
25 tration by submitting additional tradeable allowances of

1 equivalent amount in the calendar year following that de-
2 termination.

3 (b) REGULATIONS REQUIRED.—The Secretary, act-
4 ing through the Under Secretary of Commerce for Science
5 and Technology, in coordination with the Secretary of Ag-
6 riculture, the Secretary of Energy, and the Administrator,
7 shall issue regulations establishing the sequestration ac-
8 counting rules for all classes of sequestration projects.

9 (c) CRITERIA FOR REGULATIONS.—In issuing regula-
10 tions under this section, the Secretary shall use the fol-
11 lowing criteria:

12 (1) If the range of possible amounts of net in-
13 crease in sequestration for a particular class of se-
14 questration project is not more than 10 percent of
15 the median of that range, the amount of sequestra-
16 tion awarded shall be equal to the median value of
17 that range.

18 (2) If the range of possible amounts of net in-
19 crease in sequestration for a particular class of se-
20 questration project is more than 10 percent of the
21 median of that range, the amount of sequestration
22 awarded shall be equal to the fifth percentile of that
23 range.

24 (3) The regulations shall include procedures for
25 accounting for potential leakage from sequestration

1 projects and for ensuring that any registered in-
2 crease in sequestration is in addition that which
3 would have occurred if this Act had not been en-
4 acted.

5 (d) UPDATES.—The Secretary shall update the se-
6 questration accounting rules for every class of sequestra-
7 tion project at least once every 5 years.

8 **SEC. 372. PENALTIES.**

9 Any covered entity that fails to meet the require-
10 ments of section 301 for a year shall be liable for a civil
11 penalty, payable to the Administrator, equal to thrice the
12 market value (determined as of the last day of the year
13 at issue) of the tradeable allowances that would be nec-
14 essary for that covered entity to meet those requirements
15 on the date of the emission that resulted in the violation.

○