Title: To facilitate the implementation of measures to address climate change.

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 “Incentives-Based Climate Policy Act”.

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

Sec.1.Short title; table of contents.

Sec.2.Findings.

Sec.3.Purposes.

Sec.4.Definitions.

TITLE I—STRATEGIC REDUCTION TARGETS

Sec.101.Timetable.

Sec.102.Technological considerations.

Sec.103.Establishment.

Sec.104.Comprehensive system.

Sec.105.Basis for regulatory development and structure.

Sec.106.Inventory of greenhouse gas emissions for covered entities.

TITLE II—TAX INCENTIVES POLICY FOR CLIMATE-PROTECTIVE TECHNOLOGY

Sec.201.Declaration of policy.

Sec.202.Reports to Congress.

TITLE III—[Under Development]

TITLE IV—PUBLIC-PRIVATE PARTNERSHIPS FOR CLEAN ENERGY RESEARCH AND DEVELOPMENT

Sec.401.Definitions.

Sec.402.Program authority.

Sec.403.Administration of program.

Sec.404.Additional requirements for awards.

Sec.405.Advisory committees.

Sec.406.Limits relating to participation.

Sec.407.Clean Energy Research Trust Fund.

Sec.408.Recovery of costs.

Sec.409.Termination of authority.

TITLE V—PROMOTION OF NUCLEAR ENERGY

Sec.501.Incentives for innovative technologies.

Sec.502.Standby support for certain nuclear plant delays.

Sec.503.Nuclear power 2010 program.

Sec.504.Interagency working group to promote domestic manufacturing base for nuclear components and equipment.

Sec.505.Credit for nuclear facility equipment expenditures.

Sec.506.Nuclear energy workforce.

Sec.507.Licensing process.

TITLE VI—GREENHOUSE GAS EMISSIONS CAP-AND-TRADE PROGRAM

Sec.601.Evaluation of incentives program.

Sec.602.Cap-and-trade program.

Sec.603.Cost containment.

Sec.604.Certification of international compliance.

Sec.605.Technological certification.

TITLE VII—INTERNATIONAL TECHNOLOGY PROMOTION

Sec.701.General policy.

Sec.702.Export-import bank of the United States.

Sec.703.Overseas private investment corporation.

Sec.704.Technical cooperation.

TITLE VIII—CARBON CAPTURE AND SEQUESTRATION

Sec.801.Definitions.

Sec.802.State carbon dioxide geological storage programs.

Sec.803.State primary enforcement responsibility.

Sec.804.Enforcement of program.

Sec.805.Financial protection for storage operators.

Sec.806.Cessation of storage operations.

Sec.807.Liability of storage operators for release of carbon dioxide.

Sec.808.Funding.

TITLE IX—LAND CONSERVATION PROGRAMS

Sec.901.Findings.

Sec.902.Incentives to encourage land conservation.

Sec.903.Debt-for-nature swaps.

TITLE X—RELATIONSHIP TO EXISTING LAW

Sec.1001.Federal preemption of State and local authority.

Sec.1002.Clean Air Act conformity.

Sec.1003.Clarification of permit authority.

SEC. 2. FINDINGS.

Congress finds that—

(1) unchecked global warming poses one of the most serious environmental challenges of our time;

(2) policy responses to global climate change must protect the environment and ensure that energy supplies are affordable and reliable;

(3) because climate change is a global phenomenon, appropriate legislation must recognize the need for meaningful participation by all countries, including developing countries;

(4) climate change policy must—

(A) be comprehensive in nature, taking into account emissions from across the economy; and

(B) address sources and sinks of all greenhouse gases;

(5) climate change policies must be driven by the development and deployment of transformational technologies;

(6) new technologies, including efficiency improvements, generation and transmission advances, carbon capture and sequestration, and climate mitigation, must be developed and deployed to maximize the roles those technologies may play in formulating effective climate solutions;

(7) greenhouse gas reduction policies must be linked to the actual pace of technological development;

(8) the Federal Government should use incentives to advance technology, and should seek to assist with appropriate diffusion of advanced technology in the

United States and abroad;

(9) the timing of innovation must be the basis for any timetable regarding the implementation of regulatory policies designed to address global greenhouse gas emissions;

(10) although cap-and-trade programs have an excellent record of success in addressing certain air pollutants, any cap-and-trade program designed to address global greenhouse emissions will have to be carefully calibrated because those emissions are unlike pollutants that can be addressed with traditional control devices;

(11) accurate emission data, investments in research, development and deployment of technology, and timely reductions of greenhouse gas emissions as suggested under this section are needed to ensure environmental protection, enhance national security, and maintain economic progress; and

(12) because matters pertaining to global greenhouse gas emissions are of national interest, policy developed to address those emissions should—

(A) be administered on a nationwide basis, unless specific exceptions are made in Federal legislation for State or local administration; and

(B) constitute a statement of Federal policy preempting the field of regulation of global greenhouse gas emissions.

SEC. 3. 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 to avert the catastrophic impacts of global climate change; and

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

SEC. 4. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) BOARD.—The term "Board" means the Technology Certification Board convened under section 102(b).

(3) 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.

(4) CLIMATE-PROTECTIVE TECHNOLOGY.—

(A) IN GENERAL.—The term "climate-protective technology" means

technology the deployment of which will result in substantial reductions of greenhouse gas emissions when compared to technology currently deployed for the production, use, or transmission of energy.

(B) INCLUSIONS.—The term “climate-protective technology” includes—

(i) energy-efficiency technology, including industrial cogeneration, residential conservation, appliance innovation, combined heat and power applications, transportation efficiency applications, and other efficiency improvements;

(ii) alternative energy technology, including applications for electric power and thermal energy production from solar, wind, geothermal, hydroelectric, marine, and hydrokinetic energy, and energy recovery from waste material;

(iii) nuclear power technology;

(iv) carbon capture and sequestration; and

(v) other technologies that could lead to substantial reductions in greenhouse gas emissions.

(5) COUNCIL.—The term “Council” means the Council on Environmental Quality.

(6) COVERED ENTITY.—The term “covered entity” means an entity (including a branch, department, agency, or instrumentality of the Federal Government or a State or local government) that—

(A)(i) owns or controls a source of greenhouse gas emissions in the electric power, industrial, or commercial sector of the United States economy;

(ii) refines, or imports refined, petroleum products for use in transportation; or

(iii) produces or imports hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride; and

(B)(i) emits, from any single facility owned by the entity, more than 10,000 metric tons of greenhouse gas per year, measured in units of carbon dioxide equivalents; or

(ii)(I) refines or imports refined petroleum products that, when combusted, will emit;

(II) produces or imports hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride that, when used, will emit; or

(III) produces or imports other greenhouse gases that, when used, will emit;

more than 10,000 metric tons of greenhouse gas per year, measured in units of carbon dioxide equivalents.

(7) DATABASE.—The term “Database” means the National Greenhouse Gas Database established under section 103(a).

(8) DEPARTMENT.—The term “Department” means the Department of Energy.

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

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

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) sulfur hexafluoride;

(E) a perfluorocarbon; or

(F) a hydrofluorocarbon.

(11) SECRETARY.—The term “Secretary” means the Secretary of Energy.

(12) STATIONARY SOURCE.—The term “stationary source” has the meaning given the term in section 111(a) of the Clean Air Act (42 U.S.C. 7411(a)).

TITLE I—STRATEGIC REDUCTION TARGETS

SEC. 101. TIMETABLE.

Not later than 180 days after the date of enactment of this Act, the Administrator shall establish—

(1) a cost-effective timetable for strategic reductions in greenhouse gas emissions in order to evaluate substantial progress toward the achievement of periodic benchmark reduction targets; and

(2) [subject to section 102(d)], periodic benchmark reduction targets for United States greenhouse gas emissions, including overall strategic reductions that—

(A) by calendar year 2020, would reduce United States greenhouse gas emissions to not more than the level of those emissions during calendar year 2006; and

(B) by calendar year 2030, would reduce United States greenhouse gas emissions to not more than the level of those emissions during calendar year 1990.

SEC. 102. TECHNOLOGICAL CONSIDERATIONS.

(a) In General.—Before establishing any strategic reduction target under section 101, the Administrator, in consultation with the Secretary and the Secretary of Agriculture, shall assess, based upon the best technology currently available to the electric power, industrial, and transportation sectors—

(1) the extent to which technology is available to achieve the reductions required under this Act, including an assessment of technologies that are lagging in development or widespread commercial deployment, or both;

(2) the extent to which technology is cost-effective in achieving the reductions

required under this Act;

(3) the impact of the use of technology on the public health and the environment;

(4) the impact of the use of technology on the energy security of the United States; and

(5) the impact of the use of the technology to achieve emission reductions on—

(A) job creation;

(B) the price and supply of agricultural commodities; and

(C) rural economic development.

(b) Technology Certification Board.—

(1) IN GENERAL.—In carrying out this section, the Administrator shall convene a Technology Certification Board.

(2) COMPOSITION.—The Board shall be composed of—

(A) the Director of the Office of Science and Technology Policy (or a designee), who shall serve as Chairperson of the Board;

(B) the Secretary of Agriculture (or a designee);

(C) the Secretary of Commerce (or a designee);

(D) the Secretary (or a designee);

(E) the Administrator (or a designee); and

(F) such other representatives of Federal agencies, owners and operators of covered facilities, and interested stakeholders, as the Administrator determines to be appropriate.

(3) DUTIES; REPORTS.—The Board—

(A) shall assist the Administrator in carrying out the assessment under subsection (a); and

(B) may request such reports from the National Research Council as are appropriate to assist the Board in carrying out subparagraph (A).

(c) Report.—Upon completion of the assessment under subsection (a), the Administrator shall submit to Congress a report that describes the results of the assessment, including a certification of whether the technology necessary to achieve any strategic reduction targets established under section 101 is available to, cost-effective for, and environmentally sound with respect to activities of the electric power, industrial, and transportation sectors.

[(d) Delay of Strategic Reduction Targets.—If the Administrator determines under this section that the technology necessary to achieve any strategic reduction targets established under section 101 is not available to, cost-effective for, or environmentally sound with respect to activities of the electric power, industrial, and transportation sectors, the Administrator may delay the establishment of the strategic reduction targets for a period of not more than [_____].]

SEC. 103. ESTABLISHMENT.

(a) In General.—As soon as practicable after the date of enactment of this Act, the Administrator, in coordination with the Secretary, the Secretary of Agriculture, State governments, and private sector and nongovernmental organizations, shall establish, operate, and maintain a database, to be known as the "National Greenhouse Gas Database", to collect, verify, and analyze data on greenhouse gas emissions by entities in the United States.

(b) National Greenhouse Gas Components.—The Database shall consist of—

(1) an inventory of greenhouse gas emissions; and

(2) a registry of greenhouse gas emission reductions and increases in sequestrations.

SEC. 104. COMPREHENSIVE SYSTEM.

(a) In General.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate regulations to implement a comprehensive Database system for greenhouse gas emission reporting, inventorying, and reduction and sequestration registration.

(b) Requirements.—The Administrator shall ensure, to the maximum extent practicable, that—

(1) the comprehensive system described in subsection (a) is designed—

(A) to maximize the completeness, transparency, and accuracy of data reported; and

(B) to minimize costs incurred by entities in measuring and reporting greenhouse gas emissions, emission reductions, and sequestrations; and

(2) the regulations promulgated under subsection (a) establish procedures and protocols that are necessary—

(A) to prevent the double-counting of greenhouse gas emissions, emission reductions, or sequestrations reported by more than 1 reporting entity;

(B) to provide for corrections to errors in data submitted to the Database;

(C) to provide for adjustments to data by reporting entities that have had a significant organizational change (including mergers, acquisitions, and divestiture), in order to maintain comparability among data in the Database over time;

(D) to provide for adjustments to reflect new technologies or methods for measuring or calculating greenhouse gas emissions, emission reductions, or sequestrations;

(E) to account for changes in registration of ownership of emission reductions or increases in sequestration resulting from a voluntary private transaction between reporting entities;

(F) to prevent a covered entity from avoiding the requirements of this Act by reorganization into multiple entities that are under common control; and

(G) to clarify the responsibility for reporting in the case of any facility owned or controlled by more than 1 entity.

SEC. 105. BASIS FOR REGULATORY DEVELOPMENT AND STRUCTURE.

The Administrator shall base the regulatory structure, including the basis for registration, measurement, and verification, for the Database, upon the programs in existence as of the date of enactment of this Act that are known as—

(1) the program for voluntary reporting of greenhouse gases under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)) (commonly known as the “1605(b) program”);

(2) the Climate Leaders program of the Environmental Protection Agency; and

(3) applicable State or regional registry programs.

SEC. 106. INVENTORY OF GREENHOUSE GAS EMISSIONS FOR COVERED ENTITIES.

(a) In General.—Not later than July 1, 2012, and each July 1 thereafter, each covered entity shall submit to the Administrator a report that provides, for the preceding calendar year, the covered entity-wide greenhouse gas emissions in the United States (as reported at the facility level), including—

(1) reasonable approximate estimates of the total quantity of direct emissions, as defined by the Administrator pursuant to section 104(a), from stationary sources expressed in units of carbon dioxide equivalents, other than—

(A) emissions reported under paragraph (3); and

(B) process and fugitive emissions (as defined by the Administrator);

(2) the quantity of petroleum products refined or refined petroleum products imported by the covered entity for use in transportation and the quantity of greenhouse gases, expressed in units of carbon dioxide equivalents, that would be emitted when those products are used for transportation, as determined by the Administrator;

(3) the quantities of hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride, expressed in units of carbon dioxide equivalents, that are produced or imported by the entity and will ultimately be emitted in the United States, as determined by the Administrator; and

(4) such other categories of greenhouse gas emissions in the United States as the Administrator determines to be—

(A) in accordance with the regulations promulgated under section 104(a); and

(B) practicable and useful for the purposes of this Act.

(b) Collection and Analysis of Data; De Minimis Threshold.—The Administrator shall—

(1) collect and analyze data reported under subsection (a) for use under this title; and

(2) establish a de minimis threshold applicable to the analysis.

TITLE II—TAX INCENTIVES POLICY FOR CLIMATE-PROTECTIVE TECHNOLOGY

SEC. 201. DECLARATION OF POLICY.

It is the policy of the United States to use, to the maximum extent practicable, the authority under the Internal Revenue Code of 1986 to encourage the near-term adoption and deployment of climate-protective technology in a manner that is consistent with the strategic reduction targets established under section 101.

SEC. 202. REPORTS TO CONGRESS.

(a) In General.—The Secretary of Treasury, in consultation with the Secretary, the Council on Environmental Quality, the Director of the Office of Science and Technology Policy, the Director of the Office of Management and Budget, and the Administrator, after providing sufficient public notice and opportunity for comment, shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a preliminary report (not later than 180 days after the date of enactment of this Act) and a final report (not later than 270 days after the date of enactment of this Act) that describe recommended legislative modifications to the Internal Revenue Code of 1986 that are necessary to ensure the increased use of climate-protective technology at a level that is sufficient to make substantial progress toward achieving the strategic reduction targets established under section 101.

(b) Considerations.—The preliminary and final reports submitted under subsection (a) shall be developed taking into consideration—

(1) optimization of provisions of the Internal Revenue Code of 1986 in effect as of the date of enactment of this Act that relate to—

(A) alternative energy investment and production; and

(B) energy efficiency;

(2) redirection of Federal tax deductions or credits available as of the date of enactment of this Act to new tax deductions or credits;

(3) new Federal tax deductions or credits formulated specifically to encourage development and use of climate-protective technology;

(4) the relationship between tax policy and increased near-term use of climate-protective technology and consequent reductions in greenhouse gas emissions; and

(5) the impact of recommended policy options on energy price and supply, fuel

diversity, energy security, and environmental protection.

(c) Net Costs.—The preliminary and final reports submitted under subsection (a) shall include a determination of additional net cost, if any, associated with the recommended proposals, taking into consideration tax savings associated with optimization and redirection described in subsection (b).

TITLE III—[Under Development]

TITLE IV—PUBLIC-PRIVATE PARTNERSHIPS FOR CLEAN ENERGY RESEARCH AND DEVELOPMENT

SEC. 401. DEFINITIONS.

In this title:

(1) ADVISORY COMMITTEE.—The term "Advisory Committee" means—

(A) the Advanced Fossil Fuel Generation and Carbon Capture and Sequestration Advisory Committee;

(B) the Advanced Renewable Energy Generation Advisory Committee; and

(C) the Advanced Nuclear Generation Advisory Committee.

(2) ELECTRIC CONSUMER.—The term "electric consumer" means any person, State agency, or Federal agency to which electric energy is sold, other than for purposes of resale.

(3) ELECTRIC UTILITY.—The term "electric utility" means any person, State agency, or Federal agency that sells electric energy.

(4) FEE.—The term "fee" means a clean energy research user fee that is—

(A) assessed by the Secretary under section 407(b)(1)(B); and

(B) based on each kilowatt-hour of electricity sold by an electric utility to an electric consumer during a calendar year.

(5) FUND.—The term "Fund" means the Clean Energy Research Trust Fund established by section 407(a).

(6) NATIONAL LABORATORY.—The term "National Laboratory" has the meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).

(7) PERSON.—The term "person" means an individual or a corporation.

(8) PROGRAM.—The term "Program" means [to be supplied by client].

(9) PROGRAM ADMINISTRATION FUNDS.—The term "program administration funds" means funds used by the program consortia to carry out each element of the program, but not to exceed 10 percent of the total funds appropriated for a fiscal year to carry out section 403.

(10) PROGRAM CONSORTIUM.—The term "program consortium" means an entity with research capabilities, as identified in section 403(d)(2), that—

(A) is incorporated as described in section 501(c)(3) of the Internal Revenue Code of 1986; and

(B) enters into a contract with the Secretary under section 403(c)(1) of this Act.

(11) PROGRAM RESEARCH FUNDS.—The term “program research funds” means funds awarded by a program consortium to a research performer in accordance with—

(A) the appropriate research and development plan required under section 403(e); and

(B) each requirement of this title.

(12) REMOTE OR INCONSEQUENTIAL.—The term “remote or inconsequential” has the meaning given the term in regulations promulgated by the Director of the Office of Government Ethics to carry out section 208(b)(2) of title 18, United States Code.

(13) SECRETARY.—The term “Secretary” includes a designee of the Secretary of Energy.

SEC. 402. PROGRAM AUTHORITY.

(a) In General.—The Secretary shall carry out a program of research, development, and demonstration of technologies for the electric power sector—

(1) to reduce greenhouse gas emissions;

(2) to increase power plant efficiency; and

(3) to capture and store carbon emissions.

(b) Program Elements.—The program shall be comprised of activities that are designed and carried out to address—

(1) advanced fossil fuel generation technologies (including carbon capture and sequestration);

(2) advanced renewable energy generation technologies; and

(3) advanced nuclear generation technologies.

SEC. 403. ADMINISTRATION OF PROGRAM.

(a) In General.—The Secretary shall carry out each program element described in section 402(b) to accelerate the development and deployment of advanced electric power generation and carbon capture and sequestration technologies through public-private partnerships.

(b) Role of Secretary.—The Secretary shall have ultimate responsibility for, and oversight of, each aspect of the program.

(c) Role of Program Consortia.—

(1) IN GENERAL.—For each program element described in section 402(b), the Secretary shall enter into a contract with a corporation that is structured as a

consortium to carry out the element of the program that is the subject of the contract.

(2) DUTIES.—Each program consortium shall—

(A) subject to the approval of the Secretary—

(i) issue research project solicitations under this title; and

(ii) make project awards to research performers;

(B) disburse research funds to research performers that receive an award under subsection (f), as directed by the Secretary in accordance with the appropriate research and development plan required under subsection (e);

(C) carry out subsection (f)(3), using program administration funds only; and

(D) subject to paragraph (3), carry out any other activity assigned by the Secretary to the program consortium under this title.

(3) LIMITATION.—The Secretary may not assign any activity to any program consortium unless the activity is specifically authorized under this title.

(4) CONFLICT OF INTEREST.—

(A) PROCEDURES.—The Secretary shall establish procedures—

(i) to ensure that each board member, officer, or employee of a program consortium who serves in a decisionmaking capacity under subsection (f)(43 discloses to the Secretary, with respect to the board member, officer, or employee, any financial interests in, or financial relationships with, applicants for, or recipients of awards under this section (including any financial interest or relationship of the spouse or minor child of the member, officer, or employee, unless the relationship or interest is remote or inconsequential); and

(ii) to require any board member, officer, or employee described in clause (i), who has a financial relationship or interest disclosed under that clause, to recuse the board member, officer, or employee from any oversight under this title with respect to the applicant or recipient that is the subject of the financial relationship or interest.

(B) EFFECT OF FAILURE TO COMPLY.—The Secretary may disqualify an application or revoke an award under this section if a board member, officer, or employee fails to comply with any procedure established by the Secretary under subparagraph (A).

(d) Selection of Program Consortia.—

(1) IN GENERAL.—The Secretary shall select program consortia through an open and competitive process.

(2) MEMBERS.—A program consortium may include—

(A) corporations;

(B) trade associations;

(C) institutions of higher education;

(D) National Laboratories; and

(E) other research institutions.

(3) REQUIREMENT OF SECTION 501(C)(3) STATUS.—The Secretary shall not select a consortium under this section unless the consortium is—

(A) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986; and

(B) exempt from taxation under section 501(a) of that Code.

(4) SCHEDULE.—

(A) SOLICITATION OF PROPOSALS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall solicit proposals from eligible consortia to perform the duties described in subsection (c)(2).

(B) SUBMISSION OF PROPOSALS.—Not later than 180 days after the date of enactment of this Act, each eligible consortium shall submit to the Secretary an application that complies with each requirement described in paragraph (5).

(C) SELECTION.—Not later than 270 days after the date of enactment of this Act, the Secretary shall select the program consortia.

(5) APPLICATION.—Each eligible consortium shall submit to the Secretary a proposal that includes, at a minimum—

(A) a list that contains a description of each member of the consortium;

(B) a complete description of the structure of the consortium, including any provisions relating to intellectual property;

(C) a description of the means by which the consortium would carry out the activities of the consortium under this section; and

(D) such other information as the Secretary may require.

(6) ELIGIBILITY.—To be eligible to be selected as a program consortium, an applicant must be an entity, the members of which collectively—

(A) have demonstrated capabilities and experience in planning and managing research, development, and demonstration programs with respect to the electric power sector; and

(B) possess operational capabilities or prior operating experience with facilities that operate through the use of the applicable fuel source.

(7) FOCUS AREAS FOR AWARDS.—

(A) FOSSIL FUEL GENERATION.—

(i) IN GENERAL.—With respect to the program element described in section 402(b)(1), awards shall address each focus area described in clauses (ii) through (iv).

(ii) GENERATION EFFICIENCY.—Awards from allocations under this Act shall address the development, demonstration, and deployment of technologies that are designed to increase the efficiency of fuel generation technologies in existence as of the date of enactment of this Act (including, at plants in existence as of the date of enactment of this Act, the piloting, testing, and first-of-a-kind demonstration of integrated, advanced coal-fueled electricity generating technologies that reduce carbon dioxide emissions through efficiency improvement and retrofit or repowering technologies).

(iii) NEW GENERATION TECHNOLOGIES.—Awards from allocations under this Act shall address the development, demonstration, and deployment of clean, advanced technologies for the generation of electricity from coal, including—

(I) ultra-high efficiency coal combustion technologies;

(II) new or improved gasification technologies;

(III) improved hydrogen-rich turbine generators;

(IV) improved methods for pre- and post-combustion carbon dioxide capture;

(V) improved methods for oxygen separation; and

(VI) technologies capable of efficiently processing coals of different ranks and qualities.

(iv) CARBON CAPTURE AND SEQUESTRATION.—Awards from allocations under this Act shall address the development, demonstration, and deployment of carbon capture and sequestration technologies, including—

(I) large-scale integrated and stand-alone carbon sequestration demonstrations; and

(II) the geological, engineering, and economic assessment of potential carbon sequestration reservoirs (including the analysis of infrastructure development needs for carbon dioxide management).

(B) ADVANCED RENEWABLE ENERGY GENERATION.—With respect to the program element described in section 402(b)(2), awards shall address—[To be supplied by client.]

(C) ADVANCED NUCLEAR GENERATION.—With respect to the program element described in section 402(b)(3), awards shall address—[To be supplied by client.]

(e) Research and Development Plan.—

(1) IN GENERAL.—The program shall be carried out pursuant to 1 or more research and development plans—

(A) that cover each program element described in section 402(b); and

(B) each of which shall be approved by the Secretary in accordance with

paragraph (2).

(2) PLAN DEVELOPMENT PROCESS.—

(A) SOLICITATION.—

(i) IN GENERAL.—The Secretary shall solicit from the program consortia specific written recommendations for each element to be addressed in 1 or more research and development plans (including each element described in paragraph (4)).

(ii) SUBMISSION BY PROGRAM CONSORTIA.—Each program consortium shall submit to the Secretary a draft research and development plan that contains the specific written recommendations required under clause (i).

(iii) SOLICITATION OF OTHER EXPERTS.—The Secretary may solicit from any other appropriate expert, as determined by the Secretary, comments with respect to any draft research and development plan.

(B) SUBMISSION BY SECRETARY TO ADVISORY COMMITTEES.—The Secretary shall submit to each Advisory Committee the recommendations contained in each draft research and development plan submitted to the Secretary by each program consortium under subparagraph (A)(ii).

(3) PUBLICATION.—On the date on which the Secretary approves each research and development plan, the Secretary shall submit to Congress and publish in the Federal Register—

(A) a copy of each research and development plan; and

(B) any written comment received under paragraph (2)(A)(iii).

(4) CONTENTS.—Each research and development plan shall contain—

(A) a description of the ongoing and prospective activities of each program element carried out under this section;

(B) a list of any solicitations for awards to carry out any research, development, demonstration, or commercial application deployment activity, including a description of—

(i) the topics of each award;

(ii) the eligibility criteria for individuals who are interesting in applying for each award;

(iii) the selection criteria for individuals described in clause (ii); and

(iv) the duration each award; and

(C) a description of each activity that the program consortium would be required to carry out under this section.

(f) Awards.—

(1) IN GENERAL.—Upon approval of the Secretary, each program consortium shall make awards to research performers to carry out research, development, and

demonstration activities in accordance with each program established under this title.

(2) ELIGIBILITY.—

(A) ELIGIBILITY OF PROGRAM CONSORTIUM.—Except as provided in subparagraph (B), each program consortium shall not be eligible to receive an award under this section.

(B) ELIGIBILITY OF INDIVIDUAL MEMBERS OF PROGRAM CONSORTIUM.—If a member of a program consortium complies with each conflict of interest procedure established by the Secretary under subsection (c)(4), the member of the program consortium may receive a research award under this subsection within the context of—

(i) an individual research performer; or

(ii) a research performer that is a member of a research collaboration.

(3) OVERSIGHT.—

(A) RESPONSIBILITY OF PROGRAM CONSORTIA.—In accordance with each research and development plan approved by the Secretary under subsection (e)(2), each program consortium shall oversee the implementation of awards under this subsection, including—

(i) the disbursement of funds; and

(ii) the monitoring of activities carried out through the use of funds made available from each award to ensure compliance of the activities with each term and condition of the award.

(B) EFFECT.—Nothing in subparagraph (A) limits—

(i) the authority or responsibility of the Secretary to oversee the implementation of any award under this subsection; or

(ii) the authority of the Secretary to review or revoke any award under this subsection.

(g) Administrative Costs.—

(1) COMPENSATION.—

(A) IN GENERAL.—To compensate the program consortia for carrying out the activities of the program consortia under this section, the Secretary shall provide to the program consortia funds that the Secretary determines to be sufficient to carry out the program.

(B) MANAGEMENT FEES.—The compensation described in subparagraph (A) may include a management fee that is distributed in a manner consistent with the contracting practices and procedures of the Department.

(2) ADVANCEMENT OF COMPENSATION.—

(A) IN GENERAL.—On the date on which the Secretary selects the program consortia under subsection (d), the Secretary shall advance funds to the

program consortia.

(B) DEDUCTION FROM COMPENSATION.—Each amount that the Secretary advances to the program consortia under subparagraph (A) shall be deducted from the amount of compensation provided by the Secretary to the program consortia under paragraph (1).

(h) Audit.—

(1) IN GENERAL.—To determine the extent to which funds provided to the program consortia, and funds made available under awards made under subsection (f), have been expended in a manner consistent with the purposes and requirements of this title, the Secretary shall conduct an annual audit of the expenditures made under this section.

(2) INDEPENDENT AUDITOR.—

(A) IN GENERAL.—An audit under this subsection shall be conducted by an independent auditor.

(B) SUBMISSION TO SECRETARY.—On the date on which the independent auditor completes the audit under subparagraph (A), the independent auditor shall submit to the Secretary a copy of the audit.

(3) REVIEW BY COMPTROLLER GENERAL OF THE UNITED STATES.—The Comptroller General of the United States shall review each audit conducted by the independent auditor under paragraph (2)(A).

(4) SUBMISSION TO CONGRESS.—Not later than 90 days after the date on which the independent auditor submits to the Secretary a copy of the audit under paragraph (2)(B), the Secretary shall submit to Congress—

(A) a copy of the audit; and

(B) a written plan to remedy any deficiency in the audit, as identified by the Comptroller General of the United States through a review conducted under paragraph (3).

(i) Program Review and Oversight.—

(1) IN GENERAL.—The Secretary, acting through each National Laboratory described in paragraph (2), shall—

(A) issue a competitive solicitation for each program consortium;

(B) evaluate, select, and award a contract or other agreement to each qualified program consortium; and

(C) to ensure that the activities of each program consortium are consistent with the purposes and requirements described in this title, have primary review and oversight responsibility for each program consortium (including review and approval of research awards proposed to be made by each program consortium).

(2) DESIGNATION OF NATIONAL LABORATORIES RESPONSIBLE FOR PROGRAM OVERSIGHT.—

(A) NATIONAL ENERGY TECHNOLOGY LABORATORY.—The National Energy Technology Laboratory shall have oversight responsibility with respect to the advanced fossil fuel generation technologies and carbon capture and sequestration program element described in section 402(b)(1).

(B) NATIONAL RENEWABLE ENERGY TECHNOLOGY LABORATORY.—The National Renewable Energy Technology Laboratory shall have oversight responsibility with respect to the advanced renewable energy generation technologies program element described in section 402(b)(2).

(C) IDAHO NATIONAL LABORATORY.—The Idaho National Laboratory shall have oversight responsibility with respect to the advanced nuclear generation technologies program element described in section 402(b)(3).

(3) FUNDING LIMITATION.—Not more than 5 percent of the total amount of allocated program funds may be used for administrative oversight under this subsection, including—

(A) program direction; and

(B) the establishment of a site office, if the Secretary determines that the establishment of a site office is necessary to carry out the purposes of this subsection.

SEC. 404. ADDITIONAL REQUIREMENTS FOR AWARDS.

(a) Demonstration Projects.—With respect to an application for an award under this title for a demonstration project, the application shall contain a specific description of the ultimate commercial use of the technology to be demonstrated through the demonstration project.

(b) Intellectual Property Agreements.—If an award under this title is made to any consortium other than a program consortium, the consortium shall provide to the Secretary a signed contract that—

(1) is agreed to by each member of the consortium; and

(2) contains a description of the rights of each member with respect to any intellectual property used or developed under the award.

(c) Technology Transfer.—Of the amount of each award made under this title, 2.5 percent shall be designated for technology transfer and outreach activities under this title.

(d) Information-Sharing.—The results of each research activity carried out by each program consortium shall be made available to the public in accordance with the policy and practice of the Department with respect to information-sharing and intellectual property agreements.

SEC. 405. ADVISORY COMMITTEES.

(a) Establishment.—Not later than 270 days after the date of enactment of this Act, the Secretary shall establish an advisory committee for each program element described in

section 402(b).

(b) Membership of Advisory Committees.—

(1) ADVANCED FOSSIL FUEL GENERATION AND CARBON CAPTURE AND SEQUESTRATION ADVISORY COMMITTEE.—

(A) MEMBERSHIP.—The Advanced Fossil Fuel Generation and Carbon Capture and Sequestration Advisory Committee shall be composed of members appointed by the Secretary, including—

(i) individuals with extensive research experience relating to, or operational knowledge of, coal or natural gas generation technologies (including knowledge relating to the efficiency of coal or natural gas generation technologies); and

(ii) individuals with technical experience relevant to carbon capture and sequestration.

(B) PROHIBITION OF CERTAIN INDIVIDUALS.—In appointing members of the Advanced Fossil Fuel Generation and Carbon Capture and Sequestration Advisory Committee under subparagraph (A), the Secretary may not appoint any individual who, as of the date of the appointment, is—

(i) a Federal employee; or

(ii) a board member, officer, or employee of the program consortium that is selected to administer the program.

(2) ADVANCED RENEWABLE ENERGY GENERATION ADVISORY COMMITTEE.—

(A) MEMBERSHIP.—The Advanced Renewable Energy Generation Advisory Committee shall be composed of members appointed by the Secretary, including individuals with extensive research experience relating to, or operational knowledge of, renewable energy technologies.

(B) PROHIBITION OF CERTAIN INDIVIDUALS.—In appointing members of the Advanced Renewable Energy Generation Advisory Committee under subparagraph (A), the Secretary may not appoint any individual who, as of the date of the appointment, is—

(i) a Federal employee; or

(ii) a board member, officer, or employee of the program consortium that is selected to administer the program.

(3) ADVANCED NUCLEAR GENERATION ADVISORY COMMITTEE.—

(A) MEMBERSHIP.—The Advanced Nuclear Generation Advisory Committee shall be composed of members appointed by the Secretary, including individuals with extensive research experience relating to, or operational knowledge of, nuclear energy technologies.

(B) PROHIBITION OF CERTAIN INDIVIDUALS.—In appointing members of the Advanced Nuclear Generation Advisory Committee under subparagraph (A), the Secretary may not appoint any individual who, as of the date of the

appointment, is—

(i) a Federal employee; or

(ii) a board member, officer, or employee of the program consortium that is selected to administer the program.

(c) Duties.—

(1) IN GENERAL.—Each Advisory Committee shall advise the Secretary on the development and implementation of programs carried out under this title relating to—

(A) advanced clean energy technologies;

(B) efficient electricity generation technologies; and

(C) carbon capture and storage.

(2) WRITTEN COMMENTS.—As of a date to be determined by the Secretary, each Advisory Committee shall provide to the Secretary written comments relating to each topic described in paragraph (1).

(3) PROHIBITION.—An Advisory Committee may not make any recommendation relating to funding awards—

(A) to any consortium or other entity; or

(B) with respect to any specific project.

(d) Compensation.—

(1) COMPENSATION.—A member of an Advisory Committee shall serve without compensation.

(2) TRAVEL EXPENSES.—A member of an Advisory Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Advisory Committee.

SEC. 406. LIMITS RELATING TO PARTICIPATION.

An entity shall be eligible to receive an award under this title only if the Secretary determines that—

(1) the participation of the entity in the program would be in the economic interest of the United States; and

(2) either—

(A) the entity is—

(i) owned by the United States; and

(ii) organized under the laws (including regulations) of the United States; or

(B) the entity—

(i) is organized under the laws (including regulations) of the United States; and

(ii) has a parent entity organized under the laws (including regulations) of a country that affords—

(I) to entities owned by the United States, opportunities to participate in any cooperative research venture similar to any cooperative research venture authorized under this [title] that is comparable to those afforded to any other entity;

(II) to entities owned by the United States, local investment opportunities comparable to those afforded to any other entity; and

(III) adequate and effective protection for the intellectual property rights of entities owned by the United States.

SEC. 407. CLEAN ENERGY RESEARCH TRUST FUND.

(a) Establishment.—There is established in the Treasury of the United States an interest-bearing fund, to be known as the "Clean Energy Research Trust Fund", consisting of such amounts as are deposited by the Secretary into the Fund under subsection (b)(3).

(b) Fees.—

(1) CALCULATION; ASSESSMENT; COLLECTION.—

(A) IN GENERAL.—For calendar year 2009 and each calendar year thereafter, the Secretary shall assess the fee.

(B) CALCULATION; ASSESSMENT.—Not later than December 31 of the calendar year prior to the calendar year in which the fee shall be collected, the Secretary shall calculate and assess the fee.

(C) COLLECTION; REMITTANCE.—Each electric utility shall—

(i) collect the fee; and

(ii) not later than April 1 of the calendar year following the date described in subparagraph (B), remit to the Secretary the total amount of fees collected during the calendar year.

(2) FEE RATES.—

(A) IN GENERAL.—The rate of the fee shall be not more than the rate that the Secretary determines to be necessary to raise the amount specified for each calendar year in the table contained in subparagraph (B).

(B) APPLICABLE AMOUNTS.—The applicable amounts referred to in subparagraph (A) are as follows:2,L0,tp10,p10,10/12,g1,t1,s190,xls95

To be supplied by client1Year1Applicable Amount

2009TBD

2010TBD

2011TBD

2012TBD

2013TBD

2014TBD

2015TBD

2016TBD

2017TBD

2018TBD

2019TBD

2020TBD

2021TBD

2022TBD

2023TBD

2024TBD

2025TBD

2026TBD

2027TBD

2028TBD

2029TBD

2030TBD

[NOTE: The schedule and amounts are tentative.]

(3) DEPOSIT.—The Secretary shall deposit into the Fund the total amount of fees remitted by each electric utility to the Secretary under paragraph (1)(C)(ii).

(c) Annual Report.—For calendar year 2009 and each calendar year thereafter, each electric utility shall submit to the Secretary a report that contains a calculation of each kilowatt hour of electricity sold by the electric utility during the calendar year covered by the report.

(d) Obligational Authority.—Amounts in the Fund shall be available to the Secretary for obligation under this title without further appropriation and without fiscal year limitation, to remain available until expended.

(e) Allocation Among Program Elements.—

(1) INITIAL PERIOD OF ALLOCATION.—

(A) IN GENERAL.—For each of [calendar] years 2009 through 2014, amounts obligated from the Fund under subsection (d) shall be allocated in accordance with subparagraphs (B) through (D).

(B) FOSSIL FUEL GENERATION PROGRAM ELEMENT.—The program element relating to fossil fuel generation described in section 402(b)(1) shall receive 70 percent of the total amount of the obligations of the Secretary (of which not less than 5 percent shall be directed to programs for plug-in hybrid automotive technology).

(C) RENEWABLE ENERGY GENERATION PROGRAM ELEMENT.—The program element relating to renewable energy generation described in section 402(b)(2) shall receive 10 percent of the total amount of the obligations of the Secretary.

(D) NUCLEAR ENERGY GENERATION PROGRAM ELEMENT.—The program element relating to nuclear energy generation described in section 402(b)(3) shall receive 20 percent of the total amount of the obligations of the Secretary.

(2) PERIODIC REVIEW OF ALLOCATION.—Not later than January 1, 2014, and every 5 years thereafter, the Secretary shall—

(A) complete a periodic review of the allocation of the total amount obligated from the Fund under subsection (d) during the period covered by the periodic review to determine any change in the proportion that—

(i) each quantity of electricity generated from each fuel type described in subparagraphs (B) through (D) of paragraph (1); bears to

(ii) the total quantity of electricity generated from all fuel types; and

(B) modify each allocation described in subparagraphs (B) through (D) of paragraph (1) to conform to each proportion determined through the periodic review conducted by the Secretary under subparagraph (A).

SEC. 408. RECOVERY OF COSTS.

(a) In General.—Each cost that is incurred by an electric utility to comply with the requirements of this title, including fees, shall be—

(1) considered to be a necessary and reasonable cost; and

(2) fully and contemporaneously recoverable in any jurisdiction of the United States.

(b) Effect of Rate Regulation.—Notwithstanding any other provision of a law (including regulations), administrative order, or agreement (including a settlement agreement) between an electric utility and any regulatory authority (including any State regulatory authority) or any other party, the eligibility of an electric utility to recover the full amount of costs incurred by the electric utility to comply with the requirements of this title, including fees, shall not be affected if the sales of electric energy of the electric utility are subject to any form of rate regulation (including any rate regulation enforced by the Federal Energy Regulatory Commission or by any State agency).

SEC. 409. TERMINATION OF AUTHORITY.

(a) In General.—Subject to subsection (b), the authority of the Secretary under this title shall terminate on December 31, 2027.

(b) Authority to Assess Fees.—

(1) USE OF FUNDS.—The authority of the Secretary to assess fees under section 407(b)(1) shall terminate on the date on which the Secretary uses funds collected under that section for purposes not authorized under section 407(e).

(2) ABSOLUTE DATE OF TERMINATION.—The Secretary may not assess a fee for a sale of electricity that occurs after December 31, 2024.

TITLE V—PROMOTION OF NUCLEAR ENERGY

SEC. 501. INCENTIVES FOR INNOVATIVE TECHNOLOGIES.

(a) Definition of Project Cost.—Section 1701 of the Energy Policy Act of 2005 (42 U.S.C. 16511) is amended by adding at the end the following:

"(6) PROJECT COST.—

"(A) IN GENERAL.—The term 'project cost' means any cost associated with the development, planning, design, engineering, permitting and licensing, construction, commissioning, start-up, improvement or modification, and financing of a facility.

"(B) INCLUSIONS.—The term 'project cost' includes—

"(i) reasonable escalation and contingencies;

"(ii) the cost of and fees for a guarantee;

"(iii) reasonably required reserve funds;

"(iv) initial working capital; and

"(v) interest accrued during construction.".

(b) Terms and Conditions; Amount.—Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by striking subsections (b) and (c) and inserting the following:

"(b) Specific Appropriation or Contribution.—

"(1) IN GENERAL.—No guarantee shall be made unless—

"(A) the Secretary has received from the borrower and deposited in the Treasury a payment in full for the cost of the obligation;

"(B) an appropriation for the cost has been made in lieu of a payment being made, received, and deposited as described in subparagraph (A), based on recommendation by the Secretary; or

“(C) a combination of actions described in subparagraphs (A) and (B) has been carried out such that, when combined, the actions are sufficient to cover the cost of the obligation.

“(2) RELATION TO OTHER LAWS.—Section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)) shall not apply to a loan guarantee made in accordance with paragraph (1)(B).

“(c) Amount.——

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall guarantee 100 percent of the obligation for a facility that is the subject of the guarantee, or a lesser amount if requested by the borrower.

“(2) LIMITATION.—The total amount of loans guaranteed for a facility by the Secretary shall not exceed 80 percent of the total project cost of the facility, as estimated at the time at which the guarantee is issued.”.

(c) Fees.—Section 1702(h) of the Energy Policy Act of 2005 (42 U.S.C. 16512(h)) is amended by striking paragraph (2) and inserting the following:

“(2) AVAILABILITY.—Fees collected under this subsection shall—

“(A) be deposited by the Secretary into a special fund in the Treasury, to be known as the ‘Incentives For Innovative Technologies Fund’; and

“(B) remain available to the Secretary for expenditure, without further appropriation or fiscal year limitation, for administrative expenses incurred in carrying out this title.”.

(d) Report to Congress.—Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by adding at the end the following:

“(k) Report to Congress.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection and annually thereafter, the Secretary shall submit to Congress a report that summarizes the applications for loan guarantees received, loan guarantees approved and rejected, and justifications for rejections of loan guarantees, under this title.

“(2) TERMINATION OF AUTHORITY.—Beginning with fiscal year 2018, the Secretary shall provide, in the annual report submitted for each fiscal year under paragraph (1), a recommendation on whether all or part of the loan guarantee program under this title should be terminated.”.

[SEC. 502. STANDBY SUPPORT FOR CERTAIN NUCLEAR PLANT DELAYS.]

[(a) Definitions.—Section 638(a) of the Energy Policy Act of 2005 (42 U.S.C. 16014(a)) is amended—]

[(1) by redesignating paragraph (4) as paragraph (7); and]

[(2) by inserting after paragraph (3) the following:]

["(4) FULL POWER OPERATION.—The term 'full power operation' means the earlier of—]

["(A) the date of commencement of commercial operation of a facility, or an equivalent date, under the terms of the financing documents for a facility; or]

["(B) the operation of a facility at an average of 50 percent or greater of nameplate capacity over any consecutive 30-day period following the date of completion of startup testing for the facility.]

["(5) INCREASED PROJECT COSTS.—]

["(A) IN GENERAL.—The term 'increased project costs' means the increased cost of constructing, commissioning, testing, operating, or maintaining a reactor prior to full-power operation incurred as a result of a delay relating to a reactor covered by a contract.]

["(B) INCLUSIONS.—The term 'increased project costs' includes—]

["(i) costs of demobilization and remobilization;]

["(ii) increased costs of equipment, materials, and labor due to delay (including idle time);]

["(iii) increased general and administrative costs; and]

["(iv) escalation costs for completing construction.]

["(6) LITIGATION.—The term 'litigation' means—]

["(A) adjudication in a Federal, State, tribal, or local court; and]

["(B) an action before an administrative proceeding or hearing at or before a Federal, State, tribal, or local agency or administrative entity.".]

[(b) Contract Authority.—Section 638(b) of the Energy Policy Act of 2005 (42 U.S.C. 16014(b)) is amended by striking paragraph (1) and inserting the following:]

["(1) AUTHORITY.—]

["(A) IN GENERAL.—The Secretary may enter into contracts under this section with sponsors of an advanced nuclear facility that cover, at any time, a total of not more than 12 reactors, with the 12 reactors consisting of not fewer than 2 nor more than 4 different reactor designs, in accordance with paragraph (2).]

["(B) TERMINATION OR EXPIRATION OF CONTRACTS.—If any contract entered into under this section terminates or expires without a claim being paid by the Secretary in accordance with the contract, the Secretary may enter into a new contract under this section as a replacement or substitution for the contract.".]

[(c) Covered Costs.—Section 638(d) of the Energy Policy Act of 2005 (42. U.S.C. 16014(d)) is amended by striking paragraphs (2) and (3) and inserting the following:]

["(2) COVERAGE.—In the case of 2 or more reactors that receive combined licenses and on which construction is commenced, the Secretary shall pay—]

["(A) 100 percent of the covered costs of delay that occur after the initial 30-day period of covered delay; but]

["(B) not more than $500,000,000 per contract.]

["(3) COVERED DEBT OBLIGATIONS.—Debt obligations covered under paragraph (5)(A) shall include debt obligations incurred to pay increased project costs.".]

[(d) Dispute Resolution.—Section 638 of the Energy Policy Act of 2005 (42 U.S.C. 16014) is amended —]

[(1) by designating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively; and]

[(2) by inserting after subsection (e) the following:]

["(f) Dispute Resolution.—]

["(1) IN GENERAL.—Any controversy or claim arising out of or relating to any contract entered into under this section shall be determined by arbitration in Washington, District of Columbia, according to the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date of the arbitration.]

["(2) EFFECT OF DECISION; JUDGMENT.—With respect to a decision by an arbitrator under paragraph (1)—]

["(A) the decision shall be final and binding; and]

["(B) the United States District Court for the District of Columbia, or the United States district court for the district in which the project is located, shall have jurisdiction to enter judgment on the decision.".]

SEC. 503. NUCLEAR POWER 2010 PROGRAM.

Section 952(c) of the Energy Policy Act of 2005 (42 U.S.C. 16272(c)) is amended by adding at the end the following:

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the Nuclear Power 2010 Program—

"(A) $159,600,000 for fiscal year 2009;

"(B) $135,600,000 for fiscal year 2010;

"(C) $46,900,000 for fiscal year 2011; and

"(D) $2,200,000 for fiscal year 2012.".

SEC. 504. INTERAGENCY WORKING GROUP TO PROMOTE DOMESTIC MANUFACTURING BASE FOR NUCLEAR COMPONENTS AND EQUIPMENT.

(a) Purposes.—The purposes of this section are—

(1) to increase the competitiveness of the United States nuclear energy products and services industries;

(2) to identify the stimulus or incentives necessary to cause United States manufacturers of nuclear energy products to expand manufacturing capacity;

(3) to facilitate the export of United States nuclear energy products and services;

(4) to reduce the trade deficit of the United States through the export of United States nuclear energy products and services;

(5) to retain and create nuclear energy manufacturing and related service jobs in the United States;

(6) to integrate the objectives described in paragraphs (1) through (5), in a manner consistent with the interests of the United States, into the foreign policy of the United States; and

(7) to authorize funds for increasing United States capacity to manufacture nuclear energy products and supply nuclear energy services.

(b) Establishment.—

(1) IN GENERAL.—There is established an interagency working group (referred to in this section as the "Working Group") that, in consultation with representative industry organizations and manufacturers of nuclear energy products, shall make recommendations to coordinate the actions and programs of the Federal Government in order to promote increasing domestic manufacturing capacity and export of domestic nuclear energy products and services.

(2) COMPOSITION.—The Working Group shall be composed of—

(A) the Secretary (or a designee), who shall serve as Chairperson of the Working Group; and

(B) representatives, appointed by the Secretary, Administrator, or Chairperson, or their designees, of, as applicable—

(i) the Department of Energy;

(ii) the Department of Commerce;

(iii) the Department of Defense;

(iv) the Department of Treasury;

(v) the Department of State;

(vi) the Environmental Protection Agency;

(vii) the Nuclear Regulatory Commission;

(viii) the United States Agency for International Development;

(ix) the Export-Import Bank of the United States;

(x) the Trade and Development Agency;

(xi) the Small Business Administration;

(xii) the Office of the United States Trade Representative; and

(xiii) other Federal agencies, as determined by the President.

(c) Duties of Working Group.—The Working Group shall—

(1) upon the date of enactment of this Act, direct the Nuclear Regulatory Commission—

(A) to begin development of a database; and

(B) to complete, not later than 270 days after the date of enactment of this Act, a report on contemporary nuclear reactor designs;

(2) not later than 180 days after the date of enactment of this Act, identify the actions necessary to promote the safe development and application in foreign countries of nuclear energy products and services—

(A) to increase electricity generation from nuclear energy sources through development of new generation facilities;

(B) to improve the efficiency, safety, and reliability of existing nuclear generating facilities through modifications; and

(C) enhance the safe treatment, handling, storage, and disposal of used nuclear fuel;

(3) not later than 180 days after the date of enactment of this Act, identify—

(A) mechanisms (including tax stimuli for investment, loans and loan guarantees, and grants) necessary for United States companies to increase—

(i) the capacity of the companies to produce or provide nuclear energy products and services; and

(ii) exports of nuclear energy products and services; and

(B) administrative or legislative initiatives that are necessary—

(i) to encourage United States companies to increase the manufacturing capacity of the companies for nuclear energy products;

(ii) to provide technical and financial assistance and support to small and mid-sized businesses to establish quality assurance programs in accordance with domestic and international nuclear quality assurance code requirements;

(iii) to encourage, through financial incentives, private sector capital investment to expand manufacturing capacity; and

(iv) to provide technical assistance and financial incentives to small and mid-sized businesses to develop the workforce necessary to increase manufacturing capacity and meet domestic and international nuclear quality assurance code requirements;

(4) not later than 270 days after the date of enactment of this Act, submit to Congress a report that describes the findings of the Working Group under paragraphs (1), (2), and (3), including recommendations for new legislative authority, as necessary; and

(5) encourage the agencies represented by membership in the Working Group—

(A) to provide technical training and education for international development personnel and local users in other countries;

(B) to provide financial and technical assistance to nonprofit institutions that support the marketing and export efforts of domestic companies that provide nuclear energy products and services;

(C) to develop nuclear energy projects in foreign countries;

(D) to provide technical assistance and training materials to loan officers of the World Bank, international lending institutions, commercial and energy attaches at embassies of the United States, and other appropriate personnel in order to provide information about nuclear energy products and services to foreign governments or other potential project sponsors;

(E) to support, through financial incentives, private sector efforts to commercialize and export nuclear energy products and services in accordance with the subsidy codes of the World Trade Organization; and

(F) to augment budgets for trade and development programs in order to support prefeasibility or feasibility studies for projects that use nuclear energy products and services.

(d) Personnel and Service Matters.—The Secretary and the heads of agencies represented by membership in the Working Group shall detail such personnel and furnish such services to the Working Group, with or without reimbursement, as are necessary to carry out the functions of the Working Group.

(e) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary to carry out this section $20,000,000 for each of fiscal years 2009 through 2012.

[SEC. 505. CREDIT FOR NUCLEAR FACILITY EQUIPMENT EXPENDITURES.]

[(a) In General.—Subpart D of part IV of subchapter A of chapter 1 of subtitle A of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:]

[“SEC. 45O. NUCLEAR FACILITY EQUIPMENT CREDIT.]

[“(a) Amount of Credit.—For purposes of section 38, the nuclear facility equipment credit determined under this section is the amount that is 20 percent of the expenditures paid or incurred by the taxpayer during the taxable year with respect to qualified nuclear facility equipment placed in service during such taxable year.]

[“(b) Qualified Nuclear Facility Equipment.—For purposes of this section, the term ‘qualified nuclear facility equipment’ means property that is—]

["(1) acquired or constructed for the purpose of producing or testing equipment necessary for the construction or operation of an advanced nuclear power facility (within the meaning of section 45J(d), without regard to paragraph (1)(B) thereof), and]

["(2) approved by the Nuclear Regulatory Commission for any purpose for which it is placed in service.".]

[(b) Conforming Amendment.—Subsection (b) of section 38 of such Code (relating to current year business credit) is amended—]

[(1) by striking "plus" at the end of paragraph (30),]

[(2) by striking the period at the end of paragraph (31) and inserting ", plus", and]

[(3) by inserting at the end the following new paragraph:]

["(32) the nuclear facility equipment credit determined under section 45O(a).".]

[(c) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of subtitle A of such Code is amended by adding at the end the following new item:]

"Sec.45O.Nuclear facility equipment credit".

[(d) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.]

SEC. 506. NUCLEAR ENERGY WORKFORCE.

Section 1101 of the Energy Policy Act of 2005 (42 U.S.C. 16411) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) Workforce Training.—

"(1) IN GENERAL.—The Secretary of Labor, in cooperation with the Secretary of Energy, shall promulgate regulations to implement a program to provide workforce training to meet the high demand for workers skilled in the nuclear utility and nuclear energy products and services industries.

"(2) CONSULTATION.—In carrying out this subsection, the Secretary of Labor shall consult with representatives of the nuclear utility and nuclear energy products and services industries, and organized labor, concerning skills that are needed in those industries.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Labor, in coordination with the Secretary of Education and the Secretary of Energy, to carry out this subsection $20,000,000 for each of fiscal years 2009 through 2012.".

SEC. 507. LICENSING PROCESS.

Section 189 a.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)(1)(A)) is

amended by striking the third sentence and inserting the following: “In a case in which such a construction permit has been issued following the holding of such a hearing, the Commission may, in the absence of a request for a construction permit, operating license, or amendment to a construction permit or operating license by any person whose interest may be affected, issue a construction permit, an operating license, a combined construction and operating license, or an amendment to a construction permit or operating license without a hearing, on the condition that the Commission provides notice of the intent of the Commission to issue the permit, license, or amendment at least 30 days before the date of issuance and through publication at least once in the Federal Register.”.

TITLE VI—GREENHOUSE GAS EMISSIONS CAP-AND-TRADE PROGRAM

SEC. 601. EVALUATION OF INCENTIVES PROGRAM.

Section 204 of the National Environmental Policy Act of 1969 (42 U.S.C. 4344) is amended—

(1) in paragraph (7), by striking “and” at the end;

(2) in paragraph (8), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(9) beginning 2 years after the date of enactment of the Incentives-Based Climate Policy Act, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Chairperson of the Council of Economic Advisors, the Director of the Office of Management and Budget, and the Director of the Office of Science and Technology Policy, to submit to Congress an annual report that evaluates the effectiveness of the incentive programs established under titles III, IV, and V of that Act, including specific evaluations of the effectiveness of that Act in ensuring substantial progress toward the strategic reduction targets established under section 101 of that Act.”.

SEC. 602. CAP-AND-TRADE PROGRAM.

(a) In General.—If the Council, in an annual report submitted under section 204(9) of the National Environmental Policy Act of 1969, determines that an incentive program under title II, IV, or V is failing to make substantial progress toward achieving the strategic reduction targets established under section 101 for a period of 3 or more consecutive years, the Council, in consultation with the Administrator, the Secretary, the Director of the Office of Management and Budget, and the Director of the Office of Science and Technology Policy, shall conduct, not later than 1 year after submitting the report containing that determination, a detailed and comprehensive study of the recommended structure for a cap-and-trade program that—

(1) is sufficient to achieve those strategic emission reduction targets; and

(2) meets the requirements of sections 603 and 604.

(b) Requirements.—The study required under subsection (a) shall include an analysis of—

(1) the proper structure of a cap-and-trade program based upon national, international, and regional experience, including the need for new international framework agreements;

(2) the effectiveness of a cap-and-trade program at reducing greenhouse gas emissions; and

(3) the potential impact of a cap-and-trade program on energy price and supply, fuel diversity, energy security, and environmental protection.

(c) Duplication; Expedience.—In carrying out the study under subsection (a), the Chairman of the Council shall, in such manner as the Chairman determines to be appropriate, review studies and actions of other Federal agencies relating to cap-and-trade programs—

(1) to avoid any duplication of effort in establishing a cap-and-trade program under this Act; and

(2) to expedite completion of the study.

(d) Report.—Not later than 1 year after the date on which the Council completes the study under subsection (a), the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives and publish in the Federal Register a report that describes the results of the study, including appropriate findings and recommendations for Federal and non-Federal actions with respect to the matters analyzed under subsection (b).

(e) Mandatory Greenhouse Gas Emissions Capping and Trading Program.—

(1) In general.—Not later than January 1, 2030, the Administrator, in consultation with the Council, the Secretary, the Director of the Office of Management and Budget, and the Director of the Office of Science and Technology Policy, shall develop a mandatory cap-and-trade program if the incentive programs under titles III, IV, and V fail to make substantial progress toward meeting the greenhouse gas emissions reduction targets established under those titles.

(2) Requirements.—In developing the mandatory cap-and-trade program, the Administrator shall include—

(A) consideration of any studies previously submitted to Congress by the Council under this section;

(B) consideration of the potential impact of a cap-and-trade program on energy price and supply, fuel diversity, energy security, and environmental protection;

(C) consideration of the proper structure of a cap-and-trade program based upon national, international, and regional experience, including the need for new international framework agreements;

(D) certification of international compliance, as determined under section 604;

(E) cost containment measures as described in section 603;

(F) reporting and data verification requirements for any covered entities, as defined by the Administrator and including de minimis exemptions, as defined by the Administrator;

(G) the establishment of a Federal greenhouse gas registry;

(H) the establishment of a separate quantity of emission allowances for each of calendar years 2030 through 2050; and

(I) the establishment of compliance obligations and penalties for noncompliance.

(3) EFFECTIVE DATE.—The mandatory greenhouse emission cap-and-trade program established under this section shall take effect on January 1, 2030, if the incentive programs under titles III, IV, and V fail to make substantial progress toward meeting the greenhouse gas emission reduction targets established under those titles.

SEC. 603. COST CONTAINMENT.

(a) Definition of Applicable Safety-Valve Price.—In this section, the term "applicable safety-valve price" means—

(1) for calendar year 2012, $5 per metric ton of carbon dioxide equivalent; and

(2) for each subsequent calendar year, an amount, as determined and published by the Administrator, that is equal to the product obtained by multiplying—

(A) the safety-valve price for the preceding calendar year increased by 2.4 percent; and

(B) the ratio that—

(i) the implicit price deflator for the gross domestic product, as computed and published by the Department of Commerce for the most recent 4-calendar quarter period for which data are available; bears to

(ii) the implicit price deflator for the gross domestic product, as computed and published by the Department of Commerce for the 4-calendar quarter period immediately preceding the period referred to in clause (i).

(b) Safety-Valve.—Under any cap-and-trade program recommended under section 602(a) or established under section 602(e), no payment shall be required of a covered entity under the program in excess of the amount of an applicable safety-valve price in lieu of the submission of 1 or more required emission allowances.

(c) Disposition of Receipts.—Directly and without delay, the total amount of the proceeds received from payments made under a cap-and-trade program recommended under section 602(a) and implemented after the date of enactment of this Act shall be—

(1) deposited into the Clean Energy Research Trust Fund established by section 407(a); and

(2) used to carry out programs established under title IV (or any amendments made by that title).

SEC. 604. CERTIFICATION OF INTERNATIONAL COMPLIANCE.

The Council, in consultation with the Department of State and the National Security Council, shall recommend that the implementation of any cap-and-trade program recommended under section 602(a) or established under section 602(e) be suspended until such time as—

(1) the President submits to Congress certification that—

(A) each member country of the Organization for Economic Cooperation and Development, and each of the countries of Brazil, China, India, Mexico, Russia, and Ukraine, have agreed to reduce the rate or overall quantity of greenhouse gas emissions of the country;

(B) includes a description of the specific provisions to which each country has agreed under subparagraph (A);

(C) includes estimates for each country of the likely reductions in greenhouse gas emissions that would result from the agreement of the country described in subparagraph (A), including the carbon dioxide equivalents of those reductions; and

(D) the reductions in greenhouse gas emissions to which each country agrees under subparagraph (A)—

(i) are significant;

(ii) are equitable compared to reductions in the United States;

(iii) are mandatory;

(iv) are enforceable;

(v) are or will be measured by independent entities;

(vi) are or will be verifiable by third parties; and

(vii) are or will be permanent; and

(2) Congress, enacts a law approving the report submitted under section 602(d).

SEC. 605. TECHNOLOGICAL CERTIFICATION.

If the Administrator fails to complete an assessment or make a certification in accordance with subsection (a) or (c), respectively, of section 102, any downward adjustment of available emission allowances under a cap-and-trade program recommended under section 602(a) and implemented under this Act shall be suspended until such time as the Administrator completes the assessment or makes the certification.

TITLE VII—INTERNATIONAL TECHNOLOGY PROMOTION

SEC. 701. GENERAL POLICY.

It is the policy of the United States to encourage the deployment and use of climate-protective technology in foreign markets, particularly in markets of developing countries that would otherwise be unlikely to take action to control global greenhouse gas emissions.

SEC. 702. EXPORT-IMPORT BANK OF THE UNITED STATES.

Section 11(b)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–5(b)(1)) is amended—

(1) by striking "(1) IN GENERAL.—The Bank" and inserting the following:

"(1) IN GENERAL.—

"(A) SUPPORT OF ENVIRONMENTAL PROGRAMS.—The Bank"; and

(2) by adding at the end the following:

"(B) INTERNATIONAL TECHNOLOGY PROMOTION TO ADDRESS CLIMATE CHANGE.—The Bank shall encourage and give priority status to the export of climate-protective technology, and other goods and services that have the effect of reducing greenhouse gas emissions, mitigating the effects of such emissions, or fostering adaptation to the effects of such emissions.".

SEC. 703. OVERSEAS PRIVATE INVESTMENT CORPORATION.

Section 239 of the Foreign Assistance Act of 1961 (22 U.S.C. 2199) is amended by adding at the end the following:

"(l) Effects on Global Greenhouse Gas Emissions To Be Considered.—The Corporation shall, in consultation with the Secretary of State and the Administrator of the Environmental Protection Agency, take into account in insuring, reinsuring, guaranteeing, or financing a project in a country—

"(1) all available information relating to the country's policies to—

"(A) reduce greenhouse gas emissions; and

"(B) mitigate and adapt to the effects of such emissions; and

"(2) the effect the project will have on such reduction and mitigation.

"(m) Exception Regarding Prohibition on Funding.—Section 116 of this Act (22 U.S.C. 2151n) shall not apply to the insurance, reinsurance, guaranty, or financing of a project by the Corporation if such insurance, reinsurance, guaranty, or financing is in the national security interest of the United States.".

SEC. 704. TECHNICAL COOPERATION.

Section 106(d)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151d(d)(2)) is amended by inserting before the semicolon the following: “and to render such assistance as effective as practicable in enhancing the use of climate-protective technology, and the mitigation of and adaptation to the effects of greenhouse gas emissions.”.

TITLE VIII—CARBON CAPTURE AND SEQUESTRATION

SEC. 801. DEFINITIONS.

In this title:

(1) CARBON DIOXIDE.—The term “carbon dioxide” means anthropogenically sourced carbon dioxide that is of sufficient purity and quality as to not compromise the safety and efficiency of any reservoir in which the carbon dioxide is stored.

(2) FEDERAL AGENCY.—The term “Federal agency” means any department, agency, or instrumentality of the United States.

(3) GEOLOGICAL STORAGE.—The term “geological storage” means permanent or short-term underground storage of carbon dioxide in a reservoir.

(4) PERSON.—

(A) IN GENERAL.—The term “person” means an individual, corporation, company (including a limited liability company), association, partnership, State, municipality, or Federal agency.

(B) INCLUSIONS.—The term “person” includes an officer, employee, and agent of any corporation, company (including a limited liability company), association, partnership, State, municipality, or Federal agency.

(5) RESERVOIR.—

(A) IN GENERAL.—The term “reservoir” means any subsurface sedimentary stratum, formation, aquifer, or cavity or void (whether natural or artificially created) that is suitable for or capable of being made suitable for the injection and storage of carbon dioxide.

(B) INCLUSIONS.—The term “reservoir” includes—

(i) an oil and gas reservoir;

(ii) a saline formation or coal seam; and

(iii) the seabed and subsoil of a submarine area.

(6) STATE.—

(A) IN GENERAL.—The term “State” means—

(i) each of the several States of the United States;

(ii) the District of Columbia;

(iii) the Commonwealth of Puerto Rico;

(iv) Guam;

(v) American Samoa;

(vi) the Commonwealth of the Northern Mariana Islands;

(vii) the Federated States of Micronesia;

(viii) the Republic of the Marshall Islands;

(ix) the Republic of Palau; and

(x) the United States Virgin Islands.

(B) INCLUSIONS.—The term “State” includes all territorial water, seabed, and subsoil of submarine areas of each State.

(7) STATE REGULATORY AGENCY.—The term “State regulatory agency” means the agency designated by the Governor of a State to administer a carbon dioxide storage program of the State.

(8) STORAGE FACILITY.—

(A) IN GENERAL.—The term “storage facility” means an underground reservoir, underground equipment, and surface structures and equipment used in an operation to store carbon dioxide in a reservoir.

(B) EXCLUSIONS.—The term “storage facility” does not include pipelines used to transport the carbon dioxide from 1 or more capture facilities to the storage and injection site.

(9) STORAGE OPERATOR.—The term “storage operator” means any person or other entity authorized by the Administrator or State regulatory agency to operate a storage facility.

(10) UNDERGROUND RESERVOIR.—The term “underground reservoir”, with respect to a storage facility, includes any necessary and reasonable areal buffer and subsurface monitoring zones that are—

(A) designated by the United States Geological Survey or a State regulatory agency for the purpose of ensuring the safe and efficient operation of the storage facility for the storage of carbon dioxide; and

(B) selected to protect against pollution, invasion, and escape or migration of the stored carbon dioxide.

SEC. 802. STATE CARBON DIOXIDE GEOLOGICAL STORAGE PROGRAMS.

(a) Regulations.—

(1) IN GENERAL.—The Administrator shall—

(A) not later than 180 days after the date of enactment of this Act, publish in the Federal Register proposed regulations for State carbon dioxide storage

programs; and

(B) not later than 180 days after the date of publication of the proposed regulations under subparagraph (A), promulgate final regulations for State carbon dioxide storage programs that meet the requirements described in subsection (b)(1), including such modifications as the Administrator determines to be appropriate.

(2) UPDATING.—The Administrator may periodically review and, as necessary, revise the regulations promulgated under this subsection.

(b) State Regulatory Authority.—

(1) IN GENERAL.—The regulations promulgated under subsection (a)(1)(B) shall include minimum requirements that States shall meet in order to be approved to administer a carbon dioxide storage program under section 803(a), including—

(A) a prohibition on carbon dioxide storage in the State that is not authorized by a permit issued by the State;

(B) inspection, monitoring, recordkeeping, and reporting requirements; and

(C) authority for the State regulatory agency to issue a permit, after public notice and hearing, approving a storage facility for the proposed geological storage of carbon dioxide if the State regulatory authority determines that—

(i) the horizontal and vertical boundaries of the geological storage facility designated by the permit are appropriate for the storage facility;

(ii) the storage facility and reservoir are suitable and feasible for the injection and storage of carbon dioxide;

(iii) a good faith effort has been made to obtain the consent of a majority of the owners having property interests affected by the storage facility, and that the storage operator intends to acquire any remaining interest by eminent domain or by a method otherwise allowed by law;

(iv) the use of the storage facility for the geological storage of carbon dioxide will not—

(I) violate drinking water standards; or

(II) contaminate other formations containing oil, gas, coal, or other commercial mineral deposits unless agreed to by the holder of the mineral right and the carbon dioxide storage facility operator; and

(v) the proposed storage would—

(I) not unduly endanger human health or the environment; and

(II) be in the public interest.

(2) STATE AUTHORITY.—A State regulatory agency approved under section 803(a) to administer a carbon dioxide storage program shall issue such orders, permits, certificates, rules, and regulations, including establishment of such appropriate and sufficient financial sureties as are necessary, for the purpose of regulating the

drilling, operation, and well plugging and abandonment and removal of surface buildings and equipment of the storage facility in order to protect the storage facility against pollution, invasion, and the escape or migration of carbon dioxide.

(3) EMINENT DOMAIN.—A storage operator may be empowered by a State regulatory agency approved under section 803(a) to exercise the right of eminent domain under State law to acquire all surface and subsurface rights and interests necessary or useful for the purpose of operating the storage facility, including easements and rights-of-way across land that are necessary to transport carbon dioxide among components of the storage facility.

(4) VARIANCE IN CONDITIONS.—The regulations promulgated under subsection (a)(1)(B) shall permit or provide for consideration of varying geological, hydrological, and historical conditions in different States and in different areas within a State.

(5) ENHANCED RECOVERY OPERATIONS.—

(A) IN GENERAL.—Upon the approval of a State to administer a carbon dioxide storage program under section 803(a), the State regulatory agency designated by the State may develop rules to allow the conversion into a storage facility of an enhanced recovery operation that is in existence as of the date on which administration of the program by the State is approved.

(B) OIL AND GAS RECOVERY.—Nothing in this Act applies to or otherwise affects the use of carbon dioxide as a part of or in conjunction with any enhanced recovery method the sole purpose of which is enhanced oil or gas recovery.

SEC. 803. STATE PRIMARY ENFORCEMENT RESPONSIBILITY.

(a) Approval of State Carbon Dioxide Storage Programs.—

(1) APPLICATION.—

(A) IN GENERAL.—After promulgation of the regulations under section 802(a)(1)(B), each State may submit to the Administrator an application that demonstrates, to the satisfaction of the Administrator, that the State—

(i) has adopted, after providing for reasonable notice and an opportunity for public comment, and will implement, a carbon dioxide storage program that meets the requirements of the regulations; and

(ii) will keep such records and make such reports with respect to the activities of the State under the carbon dioxide storage program as the Administrator may require by regulation.

(B) REVISIONS.—Not later the expiration of the 270-day period beginning on the date on which any regulation promulgated under section 802(a)(1)(B) is revised or amended with respect to a requirement applicable to State carbon dioxide storage programs, each State with a carbon dioxide storage program

approved under paragraph (2) shall submit, in such form and in such manner as the Administrator may require, a notice to the Administrator that demonstrates, to the satisfaction of the Administrator, that the State carbon dioxide storage program meets the revised or amended requirement.

(2) APPROVAL OR DISAPPROVAL.—Not later than 90 days after the date on which a State submits to the Administrator an application under paragraph (1)(A) or a notice under paragraph (1)(B), and after a reasonable (as determined by the Administrator) opportunity for discussion, the Administrator shall by regulation approve, disapprove, or approve in part and disapprove in part, the carbon dioxide storage program proposed by the State.

(3) EFFECT OF APPROVAL.—If the Administrator approves the carbon dioxide storage program of a State under paragraph (2), the State shall have primary enforcement responsibility for carbon dioxide storage in the State until such time as the Administrator determines, by regulation, that the State no longer meets the requirements of paragraph (1)(A).

(4) PUBLIC PARTICIPATION.—Before making a determination under paragraph (2) or (3), the Administrator shall provide an opportunity for a public hearing with respect to the determination.

(b) States Without Primary Enforcement Responsibility.—

(1) IN GENERAL.—If a State fails to submit an application under subparagraph (a)(1)(A) by the date that is 270 days after the date of promulgation of regulations under section 802(a)(1)(B), the Administrator shall by regulation prescribe (and may from time to time by regulation revise) a program applicable to the State that meets the terms and conditions of section 802(b).

(2) DISAPPROVAL.—If the Administrator disapproves all or a portion of the program of a State under subsection (a)(2), if the Administrator determines under subsection (a)(3) that a State no longer meets the requirements of clause (i) or (ii) of subsection (a)(1)(A), or if a State fails to submit a notice before the expiration of the period specified in subsection (a)(1)(B), the Administrator shall by regulation, not later than 90 days after the date of the disapproval, determination, or expiration (as the case may be), prescribe (and may from time to time by regulation revise) a program applicable to the State that meets the requirements of section 802(b).

(3) APPLICABILITY.—A program prescribed by the Administrator under paragraph (2) shall apply in a State only to the extent that a program adopted by the State that the Administrator determines meets the requirements of this section or section 802(b) is not in effect.

(4) PUBLIC PARTICIPATION.—Before promulgating any regulation under paragraph (2) or (3), the Administrator shall provide an opportunity for a public hearing with respect to the regulation.

SEC. 804. ENFORCEMENT OF PROGRAM.

(a) Notification.—

(1) IN GENERAL.—In any case in which the Administrator determines, during a period during which a State has primary enforcement responsibility for carbon dioxide storage, that any person who is subject to a requirement of the carbon dioxide storage program is violating the requirement, the Administrator shall notify the State and the person violating the requirement of the violation.

(2) FAILURE TO ENFORCE.—If, after the date that is 30 days after the Administrator notifies a State of a violation under paragraph (1), the State has not commenced appropriate enforcement action, the Administrator shall—

(A) issue an order under subsection (b) requiring the person to comply with the requirement; or

(B) bring a civil action in accordance with subsection (c).

(3) VIOLATIONS IN CERTAIN STATES.—In any case in which the Administrator determines, during a period during which a State does not have primary enforcement responsibility for carbon dioxide storage, that any person subject to any requirement of any applicable carbon dioxide storage program in the State is violating the requirement, the Administrator shall—

(A) issue an order under subsection (b) requiring the person to comply with the requirement; or

(B) bring a civil action in accordance with subsection (c).

(b) Administrative Orders and Appeals.—

(1) IN GENERAL.—In any case in which the Administrator has the authority to bring a civil action under this section with respect to any regulation or other requirement of this Act, the Administrator may, in addition to bringing the civil action, issue an order under this subsection that—

(A) assesses a civil penalty of not more than $10,000 for each day of violation for any past or current violation, up to a maximum aggregate civil penalty of $125,000, for each entity covered by this section;

(B) requires compliance with the regulation or other requirement; or

(C) accomplishes each of the actions described in subparagraphs (A) and (B).

(2) TIMING.—An order under this subsection shall be issued by the Administrator only after an opportunity (provided in accordance with this subsection) for a hearing.

(3) NOTICE.—Before issuing any order under paragraph (1), the Administrator shall provide to the person to whom the order applies—

(A) written notice of the intent of the Administrator to issue the order; and

(B) the opportunity to request, within the 30-day period beginning on the date of receipt by the person of the notice, a hearing on the order.

(4) REQUIREMENTS.—A hearing described in paragraph (3)(B)—

(A) shall not be subject to section 554 or 556 of title 5, United States Code;

but

(B) shall provide to each interested person a reasonable opportunity to be heard and to present evidence.

(5) NOTICE AND COMMENT.—The Administrator shall provide public notice of, and a reasonable opportunity to comment on, any proposed order.

(6) SPECIFIC NOTICE.—Any person who comments on any proposed order under paragraph (5) shall be given notice of any hearing under this subsection and of any order.

(7) EFFECTIVE DATE.—Any order issued under this subsection shall become effective on the date that is 30 days after the date of issuance of the order, unless an appeal is taken pursuant to paragraph (11).

(8) CONTENTS OF ORDER.—Any order issued under this subsection—

(A) shall state with reasonable specificity the nature of the violation; and

(B) may specify a reasonable period to achieve compliance.

(9) CONSIDERATIONS.—In assessing any civil penalty under this subsection, the Administrator shall take into consideration all appropriate factors, including—

(A) the seriousness of the violation;

(B) the economic benefit (if any) resulting from the violation;

(C) any history of similar violations;

(D) any good-faith efforts to comply with the applicable requirements;

(E) the economic impact of the penalty on the violator; and

(F) such other matters as justice may require.

(10) OTHER ACTIONS.—Any violation with respect to which the Administrator has commenced and is diligently prosecuting a civil action under a provision of law other than this Act, or has issued an order under this subsection assessing a civil penalty, shall not be subject to a civil action under subsection (c).

(11) APPEALS.—Any person against whom an order is issued or who commented on a proposed order pursuant to paragraph (5) may file an appeal of the order, not later than 30 days after the date of issuance of the order, with—

(A) the United States District Court for the District of Columbia; or

(B) the United States district court for the district in which the violation is alleged to have occurred.

(12) DISTRIBUTION OF COPIES.—An appellant shall simultaneously send a copy of an appeal filed under paragraph (11) by certified mail to the Administrator and to the Attorney General.

(13) RECORD.—The Administrator shall promptly file in the appropriate court described in paragraph (11) a certified copy of the record on which an order was based.

(14) JUDICIAL ACTION.—A court having jurisdiction over an order issued under this subsection shall not—

(A) set aside or remand the order unless the court determines that—

(i) there is not substantial evidence on the record, taken as a whole, to support the finding of a violation; or

(ii) the assessment by the Administrator of a civil penalty, or a requirement for compliance, constitutes an abuse of discretion; or

(B) impose additional civil penalties for the same violation, unless the court determines that the assessment by the Administrator of a civil penalty constitutes an abuse of discretion.

(15) FAILURE TO PAY.—

(A) IN GENERAL.—If any person fails to pay an assessment of a civil penalty after an order becomes effective under paragraph (7), or after a court, in a civil action brought under paragraph (11), has entered a final judgment in favor of the Administrator, the Administrator may request the Attorney General to bring a civil action in an appropriate United States district court to recover the amount assessed, plus costs, attorneys' fees, and interest at currently prevailing rates, calculated from the date on which the order is effective or the date of the final judgment, as the case may be.

(B) NO REVIEW OF AMOUNT.—In a civil action brought under subparagraph (A), the validity, amount, and appropriateness of the civil penalty shall not be subject to review.

(16) AUTHORITY OF ADMINISTRATOR.—The Administrator may, in connection with administrative proceedings under this subsection—

(A) issue subpoenas compelling the attendance and testimony of witnesses and subpoenas duces tecum; and

(B) request the Attorney General to bring a civil action to enforce any subpoena issued under this paragraph.

(17) ENFORCEMENT.—The United States district courts shall have jurisdiction to enforce, and impose sanctions with respect to, subpoenas issued under paragraph (16).

(c) Civil and Criminal Actions.—

(1) IN GENERAL.—A civil action referred to in paragraph (2) or (3) of subsection (a) shall be brought in the appropriate United States district court.

(2) AUTHORITY; JUDGEMENT.—A court described in paragraph (1)—

(A) shall have jurisdiction to require compliance with any requirement of an applicable carbon dioxide storage program or with an order issued under subsection (b); and

(B) may enter such judgment as the protection of public health may require.

(3) PENALTIES.—Any person who violates any requirement of an applicable carbon dioxide storage program or an order requiring compliance under subsection (b)—

(A) shall be subject to a civil penalty of not more than $25,000 for each day of such violation; and

(B) if the violation is willful, may, in addition to or in lieu of the civil penalty under subparagraph (A), be imprisoned for not more than 3 years, fined in accordance with title 18, United States Code, or both.

(d) Effect on State Authority.—

(1) IN GENERAL.—Nothing in this section diminishes or otherwise affects any authority of a State or political subdivision of a State to adopt or enforce any law (including a regulation) relating to the storage of carbon dioxide.

(2) OTHER REQUIREMENTS.—No law (including a regulation) described in paragraph (1) shall relieve any person of any requirement otherwise applicable under this Act.

SEC. 805. FINANCIAL PROTECTION FOR STORAGE OPERATORS.

(a) In General.—Each storage operator shall be required by the State regulatory agency (in the case of a State with primary enforcement authority) or the Administrator (in the case of a State that does not have primary enforcement authority) to have and maintain financial protection of such type and in such amounts as are necessary to cover public liability claims relating to the storage facility of the storage operator.

(b) Maintenance of Protection.—The financial protection required under subsection (a) shall be maintained by the storage operator until such time as the operator obtains a certificate of completion of injection operations under section 806.

(c) Amount.—The amount of financial protection required under subsection (a) shall be the maximum amount of liability insurance available at a reasonable cost and on reasonable terms from private sources (including private insurance, private contractual indemnities, self-insurance, or a combination of those measures), as determined by the Administrator.

SEC. 806. CESSATION OF STORAGE OPERATIONS.

Upon a showing by a storage operator that a storage facility is reasonably expected to retain mechanical integrity and remain in place, the State regulatory agency (in the case of a State with primary enforcement authority) or the Administrator (in the case of a State that does not have primary enforcement authority) shall issue a certificate of completion of injection operations to the storage operator.

SEC. 807. LIABILITY OF STORAGE OPERATORS FOR RELEASE OF CARBON DIOXIDE.

(a) In General.—The Administrator shall agree to indemnify and hold harmless a storage operator that has maintained financial protection under section 805 from liability arising from the leakage of carbon dioxide at any storage facility operated by the storage operator, to the extent that the liability is in excess of the level of financial protection required of the storage operator.

(b) Completion of Operations.—Upon the issuance of certificate of completion of injection operations by a State regulatory agency (in the case of a State with primary enforcement authority) or the Administrator (in the case of a State that does not have primary enforcement authority)—

(1) the Administrator shall be vested with complete and absolute title and ownership of the storage facility and any stored carbon dioxide at the facility;

(2) the storage operator and all generators of any injected carbon dioxide shall be released from all further liability associated with the project; and

(3)(A) any performance bonds posted by the storage operator shall be released; and

(B) continued monitoring of the storage facility, including remediation of any well leakage, shall become the responsibility of the Administrator.

SEC. 808. FUNDING.

(a) In General.—For each fiscal year, the Administrator shall collect an annual assessment from each storage operator that has not obtained a certificate of completion of injection operations.

(b) Assessment Amount.—The amount of the assessment of a storage operator for a fiscal year shall be equal to the product obtained by multiplying—

(1) the per-ton assessment for the fiscal year calculated under subsection (d); and

(2) the total number of tons of carbon dioxide injected for storage by the storage operator during the preceding fiscal year at all storage facilities operated by the storage operator during the fiscal year.

(c) Aggregate Amount.—The aggregate amount of assessments collected from storage operators under subsection (a) for any fiscal year shall be equal to the sum of, with respect to the fiscal year—

(1) any indemnification payments required to be made pursuant to section 807(a);

(2) any costs associated with storage facilities to which the Administrator has taken title pursuant to section 807(b), including costs associated with any—

(A) inspection, monitoring, recordkeeping, and reporting requirements of those facilities;

(B) remediation of carbon dioxide leakage; or

(C) plugging and abandoning of remaining wells; and

(3) any costs associated with public liability of storage facilities to which the Administrator has taken title pursuant to section 807(b).

(d) Calculation of Assessment.—The assessment under this section per ton of carbon dioxide for a fiscal year shall be equal to the quotient obtained by dividing—

(1) the aggregate amount of assessments calculated under subsection (c) for the fiscal year; by

(2) the aggregate number of tons of carbon dioxide injected for storage during the preceding fiscal year.

(e) Information.—The Administrator shall require the submission of such information by each storage operator on an annual basis as is necessary to make the calculations required under this section.

TITLE IX—LAND CONSERVATION PROGRAMS

SEC. 901. FINDINGS.

Congress finds that—

(1) land-use changes, including deforestation, account for as much as 25 percent of global greenhouse gas emissions; and

(2) policies that promote land conservation in sensitive areas in the United States and abroad can make a significant contribution to reducing greenhouse gas emissions.

SEC. 902. INCENTIVES TO ENCOURAGE LAND CONSERVATION.

(a) Permanent Extension of Special Limitation for Qualified Conservation Contributions.—

(1) INDIVIDUALS.—Subparagraph (E) of section 170(b)(1) of the Internal Revenue Code of 1986 (relating to contributions of qualified conservation contributions) is amended by striking clause (iv).

(2) CORPORATIONS.—Subparagraph (B) of section 170(b)(2) of such Code (relating to qualified conservation contributions by certain corporate farmers and ranchers) is amended by striking clause (iii).

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2007.

SEC. 903. DEBT-FOR-NATURE SWAPS.

Section 463 of chapter 7 of the Foreign Assistance Act of 1961 (22 U.S.C. 2283) (as added by Public Law 101–240) is amended in subsection (a)(1) by inserting before the semicolon at the end the following: ", with particular priority being given to those exchanges resulting in reduction of greenhouse gas emissions, mitigation of the effects of those emissions, or fostering adaptation to the effect of those emissions".

TITLE X—RELATIONSHIP TO EXISTING LAW

SEC. 1001. FEDERAL PREEMPTION OF STATE AND LOCAL AUTHORITY.

(a) Finding.—Congress finds that matters pertaining to the regulation of greenhouse gas emissions—

(1) are of national interest and concern; and

(2) should be administered on a nationwide basis, unless specific exceptions are made in Federal law for State or local regulation.

(b) Preemption.—Except as otherwise provided in this Act, this Act and the amendments made by this Act constitute comprehensive Federal preemption with respect to the regulation of greenhouse gas emissions.

(c) Prohibition.—Except as otherwise provided in this Act, as of the date of enactment of this Act—

(1) no State or local government may prohibit or regulate the emission of greenhouse gases; and

(2) any State or local law or ordinance that is inconsistent with this subsection shall be void and of no force or effect.

(d) Notification and Review.—The Administrator shall—

(1) notify any State or local agency that enacts a law (including a regulation or ordinance) that is inconsistent with this section that law is preempted by Federal law; and

(2) if necessary, bring a civil action in the Court of Appeals for the District of Columbia to invalidate and prohibit the enforcement of any such law.

SEC. 1002. CLEAN AIR ACT CONFORMITY.

As of April 2, 2007, no authority to regulate carbon dioxide shall arise under the Clean Air Act (42 U.S.C. 7401 et seq.).

SEC. 1003. CLARIFICATION OF PERMIT AUTHORITY.

(a) In General.—No preconstruction permit under title I of the Clean Air Act (42 U.S.C. 7401 et seq.) shall be required for any physical change in, or change in the method of operation of, a covered facility if the change would improve the greenhouse gas efficiency of or reduce total emissions from the facility, as determined by the Administrator.

(b) Efficiency Measurements.—For the purpose of subsection (a)—

(1) greenhouse gas efficiency shall be measured in terms of total global warming potential-weighted greenhouse gas emissions per unit of production; and

(2) total emissions shall be measured in terms of maximum hourly emissions of all pollutants subject to regulation under the Clean Air Act (42 U.S.C. 7