

**DRAFT- MAY 11, 2010**

**THE AMERICAN POWER ACT**  
**Section-by-Section**

**TITLE I – DOMESTIC CLEAN ENERGY DEVELOPMENT**

Subtitle A – Nuclear Power

Section 1001. *Statement of policy.*

Part I — Encouraging Domestic Nuclear Power Generation

Section 1101. *Improvements Regarding Efficiency of Regulatory Process:* Provides for an expedited procedure for issuing combined construction and operating licenses for qualified new nuclear reactors. No later than 90 days after enactment of the Act, the Nuclear Regulatory Commission shall submit a report to Congress that contains recommendations regarding the development and implementation of procedures that would enable the Commission to expedite the licensing process in a way that is guided by sound science and engineering while remaining fully mindful of environmental and safety concerns. No later than one year after the date of enactment, the Commission will submit to Congress a report on an approach to develop technology-neutral guidelines for nuclear plan licensing in the future.

Section 1102. *Title 17 Innovative Technology Loan Guarantee Program:* Increases the funding for the Innovative Technology Loan Guarantee Program to \$54 billion and establishes a loan guarantee retention fee to ensure that money is returned to the program as expeditiously as practicable.

Section 1103. *Standby Support for Certain Nuclear Plant Delays:* Amends the Energy Policy Act of 2005 to provide regulatory risk insurance for up to 12 reactors, rather than the current 6 reactors. Directs the Secretary to pay the full amount of covered delay costs for each reactor up to \$500,000,000.

Section 1104. *Spent Fuel Recycling Research and Development Center of Excellence:* No later than a year after the date of enactment, the Secretary of Energy shall designate a National Laboratory as a spent fuel recycling research and development center of excellence to serve as the lead site for continuing research and development of advanced nuclear fuels cycles and separation technologies.

Section 1105. *Permits and Licenses; Hearings and Judicial Review; Adjudicatory Hearing:* Amends the Atomic Energy Act of 1954 to remove requirement for an administrative hearing on non-contested issues prior to granting construction permits and operating licenses for nuclear facilities. This change has no bearing on public hearings on contested issues, which are not impacted by the change.

Section 1106. *Continuation of Service:* Extends time members can serve on the Nuclear Regulatory Commission to provide continuity in the event of delayed confirmation procedures.

Section 1107. *Nuclear Energy Research Initiative*: Not later than 180 days after the date of enactment, the Secretary of Energy shall develop and publish on the website of the Department of Energy a schedule that contains an outline of a 5-year strategy to effectively lower the costs of nuclear reactor systems including small-scale and modular reactors, licensing issues and advanced proliferation controls. .

Section 1108. *Inspections, tests, analyses and acceptance criteria*: Amends Section 185 b. of the Atomic Energy Act of 1954 to ensure that prescribed inspections, tests and analyses have been met following the issuance of the combined license.

Section 1109. *Environmental reviews for nuclear energy projects*: Amends Section 185 b. of the Atomic Energy Act of 1954 to allow for the supplementation of the environmental impact statement completed in advance of the issuance of an early site permit for subsequent phases of the licensing process for the same facility, such as the issuance of the combined operating license.

#### Part II — Extension of Duty Suspension for certain Nuclear Parts

Section 1111. *Suspension of Duty on Certain Components Used in Nuclear Facilities*: Suspends for an additional ten years the duty on certain components used in nuclear facilities that are not available in the United States.

#### Part III — Tax Provisions

Section 1121. *5-year Accelerated Depreciation Period for New Nuclear Power Plants*: Reduces the accelerated depreciation period to five years.

Section 1122. *Investment Tax Credit for Nuclear Power Facilities*: Provides a ten percent credit for certain expenditures for the construction of nuclear power facility construction.

Section 1123. *Inclusion of Nuclear Power Facilities in Qualifying Advanced Energy Project credit*: Expands the advanced energy project credit to include nuclear power facilities.

Section 1124. *Modification of Credit for Production from Advanced Nuclear Power Facilities*: Modifies the credit to allow allocation of credit to private partnerships with public power.

Section 1125. *Treatment of Qualified Public Entities with Respect to Private Activity Bonds*: Allows tax-exempt bonds to be used for public-private partnerships for advanced nuclear power facilities.

Section 1126. *Grants for Qualified Nuclear Power Facility Expenditures in Lieu of Tax Credits*: Provides grants for qualified nuclear power facility expenditures in lieu of tax credits. The amount of the grant will be equal to 10 percent of the qualified expenditures. Public power providers or a cooperative electric company are eligible for the grants.

#### Subtitle B—Offshore Oil and Gas

Section 1202. *Revenue Sharing from Outer Continental Shelf Areas in Certain Coastal States*: Authorizes revenue sharing in areas that previously were withdrawn from leasing. 37.5% of revenues are directed to states, while 12.5% of revenues are directed to carry out state and federal programs under the Land and Water Conservation Fund.

Section 1203. *Revenue Sharing from Areas Seaward of Alaska*: Allows revenue sharing in areas adjacent to Alaska.

Section 1204. *Reservation of Lands and Rights*: A state may enact a law prohibiting leasing within 75 miles of its coastline.

Section 1205. *Impact Studies*: Requires the Secretary of the Interior to study the environmental and economic impact of any potential oil spill in areas newly available for revenue sharing under Section 1202. Based on outcomes of study, directly impacted states may prevent leasing from proceeding.

### Subtitle C – Coal

#### Part I – National Strategy for Carbon Capture and Sequestration.

Section 1401. *National Strategy*: Within one year after the date of enactment, the EPA Administrator, the Secretary of the Energy, the Secretary of the Interior, and the heads of other applicable agencies as the President may designate are required to report to Congress on the key legal, regulatory, and other barriers to the commercial-scale deployment of carbon capture and storage technology. Within 180 days of enactment, the EPA Administrator will establish a task force composed of experts, representatives of nongovernmental organizations, academics, state and tribal officials, representatives of state and tribal attorneys general, representatives of the EPA, Department of Interior, Department of Energy, Department of Transportation, and other applicable federal agencies.

Section 1402. *Studies and Reports*: Directs the Administrator to establish a task force to study existing laws, regulatory frameworks and private sector mechanisms to assess their applicability to risk management, financial responsibilities and environmental liabilities. Also directs the Administrator to study which environmental laws EPA has responsibility for that would apply to carbon dioxide injection and geologic storage activities.

#### Part II – Carbon Capture and Sequestration Deployment

Section 1411. *Definitions*: Defines the terms used in this section.

Section 1412. *Special Funding Programs for Development and Deployment of Carbon Capture, Sequestration, and Conversion Technologies*: Creates a special funding program for the development and deployment of carbon capture, sequestration, and conversion technologies.

Sec. 1413. *Carbon Capture and Sequestration Program Partnership Council*: The Secretary of Energy will establish a Carbon Capture and Sequestration Program Partnership Council to make recommendations related to the activities carried out by the special funding programs.

Sec. 1414. *Functions and administration of the special funding program*: Directs the Program Director to provide a special funding program to support projects to accelerate the commercial availability of carbon capture and sequestration technologies and methods, including technologies that capture and sequester, or capture and convert carbon dioxide. Specifies the purposes for these special funds, eligible entities, uses and restrictions.

Sec. 1415. *Assessments and funding*: After the establishment of the special funding program, the Secretary will collect an assessment on electric utilities for all fossil fuel-based electricity sold to electric consumers.

Sec. 1416. *ERCOT*: Describes how the assessment in Sec. 1415 shall be distributed within the Electric Reliability Council of Texas.

Sec. 1417. *Determination of fossil fuel-based electricity deliveries*: Provides findings, and directs proposed and final regulations to determine the level and type of fossil fuel-based electricity delivered to electric consumers by each electric utility in the U.S. during a specified timeframe.

Sec. 1418. *Compliance with assessments*: Provides that the Secretary may take action in an appropriate court to seek compliance with an assessment levied under this part and if successful, may receive payment by the defendant.

Sec. 1419. *Midcourse review*: Directs the Comptroller General of the U.S. to submit a report to Congress no later than 5 years after the establishment of the special funding program that evaluates the activities of the program and makes recommendations.

Sec. 1420. *Recovery of costs*: Provides that cost recovery is available for compliance with this part.

### Part III – Commercial Deployment of Carbon Capture and Sequestration Technologies.

Section 1431. *Commercial Deployment of Carbon Capture and Sequestration Technologies*: Amends Part G of Title VII of the Clean Air Act (as added by section 2101) by inserting Section 794.

*Section 794: Commercial Deployment of Carbon Capture and Sequestration Technologies*: Directs the Administrator to promulgate regulations providing for the distribution of emission allowances to support the commercial deployment of carbon capture and permanent sequestration technologies in electric power generation and industrial operations. Establishes eligibility requirements for facilities to receive allowances based on the number of tons carbon dioxide captured. The allowance distribution program is structured to provide greater incentives for facilities to deploy CCS technologies early in the program and for facilities to capture and sequester larger amounts of carbon dioxide.

Section 1432. Amends the Clean Air Act by inserting Section 789.

*Section 789: Carbon Capture and Sequestration Deployment Studies*. Directs the Comptroller General of the U.S. to conduct a study of the state of carbon capture and sequestration technology and barriers to deployment and submit recommendations for how to address these barriers. Also provides that the Secretary may direct the Administrator to increase or decrease the quantity of allowances based on the study.

### Part IV – Performance Standards.

Section 1441. *Performance Standards for Coal-fired Power Plants*: Amends the Clean Air Act to establish performance standards for new coal-fueled power plants permitted in 2009 or thereafter. Describes eligibility criteria, applicable emission standards, and the schedule upon which such standards must be met. Plants permitted in 2020 or thereafter are required to meet



specified standards once they begin operations. Plants permitted from 2009-2020 are required to meet the specified standard within four years after certain technology deployment criteria are met but no later than 2020. Also directs the Administrator, in consultation with the Secretary, the Commissioner of the Federal Energy Regulatory Commission, and representatives of nongovernmental organizations to conduct a study and report to Congress on impact of relevant laws on coal plant transitions, the potential financial and regulatory incentives for accelerating retirements or transitions, and recommendations on the potential changes to laws and procedures to accelerate retirements or transitions in ways that would reduce greenhouse gases and other air pollutants.

#### Subtitle D –Renewable Energy and Energy Efficiency

Sec. 1601. *Renewable Energy and Energy Efficiency*: Provides findings from Congress on the importance of large-scale deployment and accelerated progress in the areas of renewable energy and energy efficiency.

Sec. 1602. *Rural Energy Savings Program*: Amends Subtitle D of the Consolidated Farm and Rural Development Act to direct the Secretary to make available loans to qualified consumers to implement energy efficiency measures.

Sec. 1603. *Support of State Renewable Energy and Energy Efficiency Programs*: Provides direction for how the allowances distributed to states and Indian tribes should be used for the purposes of promoting renewable energy and energy efficiency programs.

Sec. 1604. *Voluntary Renewable Energy Markets*. Finds that voluntary renewable energy markets can be efficient and effective programs for supporting renewable energy and states the policy of the United States is to continue to support the growth of these markets.

#### Subtitle E- Clean Transportation

##### Part I – Electric Vehicle Infrastructure

Sec. 1701. *National Transportation Low-Emission Energy Plan; Pilot Program*. The Secretary shall develop a national transportation low-emission energy plan that projects the near- and long-term need for and location of electric drive refueling infrastructure and identifies infrastructure and standardization needs of electricity providers, vehicle manufacturers, and electricity purchasers.

##### Part II – Transportation Efficiency

Sec. 1711 (Sec. 803). *Greenhouse Gas Emission Reductions through Transportation Efficiency*. Directs states and metropolitan planning organizations to address transportation-related greenhouse gas emissions by including emission reduction targets and strategies to meet those targets.

Sec. 1712 *Investing in Transportation Greenhouse Gas Emission Reduction Programs*. The Secretary of Transportation is required to distribute allowance allocated pursuant to section 781(f)(3) of the Clean Air Act to states and metropolitan planning organizations for approved transportation greenhouse gas emission reduction programs.

##### Part III- Highway Trust Fund

Sec. 1721. *Augmenting the Highway Trust Fund*. Adds section 784 to the Clean Air Act

Sec. 785. *Highway Trust Fund.* Allowances allocated to the Highway Trust Fund are to be used to promote the safety, effectiveness and transportation in the United States through measures that are consistent with transportation efficiency planning.

#### Subtitle F – Clean Energy Research and Development

Section 1801. *Clean Energy Research and Development:* Establishes a Clean Energy Technology Fund to support programs that enhance the economic, energy, and environmental security of the U.S. through the development of energy technologies and promotes U.S leadership in developing and deploying advanced energy technologies.

### **TITLE II – GLOBAL WARMING POLLUTION REDUCTION**

#### Subtitle A – Reducing Global Warming Pollution

Section 2001. *Reducing Global Warming Pollution:* Makes the following amendments to the Clean Air Act:

##### Part A – Global Warming Pollution Reduction Goals and Targets.

*Sections 701-705.* States that the goals of Title VII and Title VIII are to reduce economy-wide global warming pollution to 95.25 percent of 2005 levels by 2013, 83 percent by 2020, 58 percent by 2030, and 17 percent by 2050. Includes a scientific review and program recommendations based on analysis of the latest scientific information.

##### Part B – Designation and Registration of GHGs.

*Sections 711-714.* Establishes a list of greenhouse gases regulated under this title: carbon dioxide, methane, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons emitted as a byproduct, perfluorocarbons, and nitrogen trifluoride. The EPA Administrator may designate additional anthropogenic greenhouse gases by rule.

##### Part C – Program Rules

Section 721. *Emission Allowances:* Establishes an annual tonnage limit on greenhouse gas emissions from specified activities. Directs the EPA Administrator to establish allowances equal to the tonnage limit for each year (with one allowance representing the permission to emit one ton of greenhouse gases, measured in tons of carbon dioxide equivalent).

Section 722. *Prohibition of Excess Emissions:* Prohibits covered entities from emitting or having attributable greenhouse gases in excess of their allowable emissions level, which is determined by the number of emission allowances and offset credits they hold on the specified date.

Section 723. *Penalty for Noncompliance:* Establishes monetary and injunctive penalties for parties that fail to comply with the requirements of Title VII.

Section 724. *Trading:* Clarifies that Title VII does not restrict who can hold an allowance, nor does it restrict the purchase, sale, or any other transactions involving allowances.

Section 725. *Banking and Borrowing:* Permits unlimited banking of allowances for use during future compliance years. Establishes a two-year rolling compliance period by allowing covered entities to borrow an unlimited number of allowances from one year into the future. Covered

entities may also satisfy up to 15 percent of their compliance obligations by submitting emission allowances with vintage years 1 to 5 years in the future, but must pay an 8 percent premium (in allowances) to do so.

*Section 726. Cost Containment Reserve:* Directs the Administrator to establish a reserve of allowances with specific details on how to fill the reserve, the sale of allowances from the reserve and replenishment of the reserve.

*Section 727. Permits:* Clarifies the obligations of operators of stationary sources under the Clean Air Act's Title V operating permit program under the newly-established Title VII program.

*Section 728. International Emission Allowances:* Establishes criteria that must be met before allowances from foreign programs can be used for compliance by covered entities including the requirement of comparable stringency.

*Section 729. Compliance for Transportation Fuels and Refined Petroleum Products:* Establishes the process for how each refined product provider shall pay an amount to the Administrator to demonstrate compliance with Section 722 with respect to refined products.

*Section 730. Regulations:* Directs the Administrator to promulgate regulations to carry out this title no later than 2 years after enactment and in consultation with States in the Regional Greenhouse Gas Initiative, the Western Climate Initiative, the Mid-West Governors Accord, and representatives of other States.

#### Part D – Offset Credit Program for Domestic Emission Reductions

*Section 731. Definitions:* Defines the terms used in this part.

*Section 732. Advisory Committee:* Establishes an independent Advisory Committee composed of scientists and others with relevant expertise, to provide scientific and technical advice on the establishment and implementation of the offset project program and provide recommendations to the Secretary and Administrator on: offset project eligibility, scientific uncertainty, quantification methodologies and related issues.

*Section 733. Establishment of Offsets Program:* Directs the Administrator and Secretary to establish an offsets program and requires that regulations ensure offsets are additional, measurable, verifiable and enforceable.

*Section 734. Eligible Projects:* Requires the appropriate official to establish and update a list of offset project types that are eligible under the program, taking into account the recommendations of the Advisory Board. Project types for consideration include fugitive methane emissions from coal mines, landfills, and oil and gas distribution facilities; agricultural, grassland, and rangeland sequestration and management practices; and changes in carbon stocks attributed to land use change and forestry activities.

*Section 735. Requirements for Offset Projects:* Requires that for each offset project type, the appropriate official establish standardized methodologies for: determining additionality; establishing activity baselines; measuring performance; and accounting for and mitigating potential leakage. Establishes requirements regarding crediting periods and procedures to address reversals, including penalties.

*Section 736. Approval of Offset Projects:* Establishes procedures for approval of offset projects, including reporting and record-keeping requirements and a requirement that an offset project developer certify the accuracy of information provided in an approval petition.

*Section 737. Verification of Offset Projects:* Directs the Secretary and Administrator to establish requirements for the verification of offset project performance, and requires that verification reports be prepared by accredited third-party verifiers.

*Section 738. Issuance of Offset Credits:* Establishes procedures for the issuance of offset credits and directs the Administrator in consultation with the Secretary to issue offset credits only if the emissions reduction or sequestration has already occurred and other specified conditions are met.

*Section 739. Audits and Reviews:* Requires the appropriate official to conduct, on an ongoing basis, random audits of offset projects, offset credits, and practices of third-party verifiers. Allows the appropriate official to delegate this responsibility to state governments.

*Section 740. Early Offset Supply:* To ensure a supply of offset credits in the early years of the program, allows for the issuance of offset credits for offsets from programs that meet specified criteria.

*Section 741. Productivity Study; Program Review and Revision:* Requires the Secretary of Agriculture to conduct a study to assess the amount of agricultural land that has been removed from agricultural production due to participation of landowners in afforestation projects under an offset program established under this Act. Requires periodic evaluation and updating of the offsets program.

*Section 742. Additional regulatory standards for emission reductions:* Clarifies limitations on the Administrator's ability to promulgate additional standards for emission reductions.

#### Part E – Offset Credit Program for International Emission Reductions

*Section 751. Definitions:* Defines the terms used in this part.

*Section 752. International Offsets Integrity Advisory Committee:* Establishes an independent International Offsets Integrity Advisory Committee to provide scientific and technical advice on the establishment and implementation of the offset project program and to provide recommendations to the Administrator on: offset project eligibility, scientific uncertainty, quantification methodologies and related issues.

*Section 753. Establishment of International Offsets Program:* Directs the Administrator in consultation with the Secretary of State and Administrator of USAID, to establish an offsets program and requires that regulations ensure offsets are additional, measurable, verifiable, permanent and enforceable.

*Section 754. Eligible Project Types:* Requires the Administrator to establish and periodically update a list of offset project types that are eligible under the program, taking into account the recommendations of the Advisory Board.

*Section 755. Requirements for International Offset Projects:* Requires that for each offset project type, the Administrator establish standardized methodologies, including for accounting for and mitigating potential leakage. Also directs the Administrator to establish requirements regarding reversals and crediting periods. Prohibits the Administrator from issuing offset credits for projects based on the destruction of hydrofluorocarbons.

*Section 756. Categories for International Offset Credits:* Provides a list of categories for international offset credits including sector-based, credits issued by an international body, or those from reduced deforestation.

*Section 757. Approval of Offset Projects:* Establishes procedures for approval of offset projects, including reporting and record-keeping requirements and a requirement that an offset project developer certify the accuracy of information provided in an approval petition.

*Section 758. Verification of Offset Projects:* Directs the Administrator to establish requirements for the verification of offset project performance, and requires that verification reports be prepared by accredited third-party verifiers.

*Section 759. Issuance of Offset Credits:* Directs the Administrator to issue offset credits only if the emissions reduction or sequestration has already occurred and other specified conditions are met.

*Section 760. Audits:* Requires the Administrator to establish requirements and protocols for an auditing program.

*Section 761. Program Review and Revision:* Requires the Administrator to review and if necessary, update and revise, the list of eligible project types, methodologies, reversal mechanism and accountability mechanisms in this part.

*Section 762. Environmental Considerations:* Requires additional environmental considerations for forestry and other land management-related offset projects.

*Section 763. Incorporation by Reference:* Describes what terms are incorporated by reference for purposes of this part.

Section 2002. *Definitions.* Amends Title VII of the Clean Air Act to insert Section 700 title “Definitions” which defines terms used in this title.

#### Subtitle B – Disposition of Allowances.

*Section 2101. Disposition of Allowances for Global Warming Pollution Reduction Program:* Provides for emission allowances to be distributed for three primary goals: to protect consumers from energy price increases, to assist industry in the transition to a clean energy economy, and to spur energy efficiency and the deployment of clean energy technology. Allocates allowances to support national and international adaptation efforts and for other purposes.

#### Part G- Disposition of Allowances.

*Section 781. Allocation of Emission Allowances:* Distributes allowances to the following: consumer protection; job protection and growth; clean energy development and deployment;

adaptation; early action to reduce greenhouse gas emissions; transportation infrastructure and efficiency; and deficit reduction.

Section 786. *Exchange for State Allowances*: No later than one year after the date of enactment, the Administrator shall promulgate regulations allowing any individual or entity in the United States to exchange state allowances for emission allowances established by the Administrator.

Section 787. *Deficit Reduction Fund*. Establishes a deficit reserve fund in the Treasury of the United States a fund to be known as the Deficit Reduction Fund.

Section 788. *Early Action Recognition*. The Administrator will distribute one-third of the allowances allocated for early action to any individual or entity in the United States to exchange instruments in the nature of offset credits issued by a state, or local, voluntary offset program. Two-thirds of allowances will be allocated to states that by the date of enactment have issued a limited number of tradable instruments in the nature of emissions allowances.

Section 790. *Auction Procedures*. No later than one year after the date of enactment of this title, the Administrator, in consultation with the Secretary of the Treasury and the heads of other relevant agencies shall promulgate regulations governing the auctioning of allowances. The auctions will occur four times a year at regular intervals. Purchase limits will be set to prevent manipulation of prices of prices at any quarterly auction. The reserve price for emissions offers for auctions occurring during calendar year 2013 is \$12 in constant 2009 dollars, increasing at 3 percent over CPI. The Administrator will set aside allowance available for auction in a quantity equal to the number of tons of attributable greenhouse gas emissions from refined products in accordance with section 729(e).

Section 791. *Auctioning Allowances for Other Entities*. The Administrator may at the request of the entity holding the allowances or pursuant to procedures in section 729(e) auction emission allowances and compensatory allowances on consignment.

Section 792. *Oversight of Allocations*: Requires the Comptroller General to prepare biannual reviews of the programs administered by the Federal Government that distribute emission allowances or funds from Federal auctions of allowances.

Section 793. *Protection of Affected Parties*: Allows holders of allowances or offsets to file a petition for review of action by the Administrator.

Section 797. *Presidential Determination*: Provides the President discretion to consider the impacts of an international agreement that would substantially reduce the risk of climate change and the existence of one or more funds to address key international priorities in allocation decisions subject to specific constraints.

Section 798. *Merchant generator efficiency incentive*: Establishes a program to address the carbon pollution intensity of merchant coal plants. If the owner or operator provides timely notification of closure or permanent repowering to the Administrator, they may continue to receive a portion of the allowances under 782(c)(6) and (d). A portion of these allowances will be dedicated to addressing the effects of the program on coal consumption and employment. This program may not include more than 35 GW of merchant coal capacity.



Part I – Hydrofluorocarbons.

Section 2201 *Hydrofluorocarbons*.

Sec. 619. *Hydrofluorocarbons*: Amends Title VI of the Clean Air Act by adding a new section 619 to phase down the consumption of hydrofluorocarbons (HFCs), many of which are extremely potent greenhouse gases, under a separate limit and reduction schedule. Uses a market-based approach requiring the phase-down of HFC consumption to 15 percent of the baseline by 2032.

Part II – Black Carbon.

Section 2211. *Report on Black Carbon Sources, Impacts, and Reduction Opportunities*: Directs the Administrator to conduct a study of black carbon emissions, report on existing efforts to reduce domestic black carbon pollution, and in coordination with the Secretary of State, to report to Congress on current and potential future assistance to foreign nations to help reduce black carbon pollution.

Section 2212. *Black carbon mitigation*: Amends Title III of the Clean Air Act to add Section 805, which directs the Administrator to use existing authority to achieve further reductions in black carbon.

Sec. 2213. *Black carbon reduction grant program*: Amends Subtitle G of Title VII of the Energy Policy Act of 2005 to direct the Administrator to establish a voluntary grant program to reduce black carbon emissions through the use of diesel particulate filters.

Sec. 2214. *Enhanced soil sequestration*: Directs the Secretary of Agriculture with other relevant agency heads to provide grants to up to 60 facilities to conduct research, develop, demonstrate and deploy biochar production technology for the purpose of sequestering carbon.

Part III – *International Methane*.

Sec. 2221. *Sense of the Senate on International Methane*: The United States is a leader in demonstrating the success of methane reductions through international partnerships. This section provides support for approaches that use partnerships such as Methane to Markets.

Part IV- *Study on Fast Mitigation Strategies*.

Section 2231. *Interagency Study on Fast Mitigation Strategies*: Directs the Administrator in consultation with the Secretary of State and Secretary of Energy to establish an interagency process to review policies and measures that promote fast mitigation of greenhouse gas emissions focusing on non-carbon dioxide climate-forcing gases.

Subtitle D – Ensuring Regulatory Predictability for Greenhouse Gases

Section 2301. *Criteria Pollutants*: Provides that greenhouse gases may not be added to the list of criteria air pollutants on the basis of their effect on climate change or ocean acidification.

Section 2302. *Standards of Performance*: Directs the Administrator to establish minimum standards of performance under section 111 of the Clean Air Act as a means of achieving reductions in greenhouse gas emissions from certain stationary sources of air pollution not subject to title VII of the Clean Air Act. Precludes the Administrator from using existing Clean Air Act section 111 authority to issue standards for entities covered by Title VII that directly emit greenhouse gases.

Section 2303. *Hazardous Air Pollutants*: Provides that greenhouse gases may not be listed as hazardous air pollutants on the basis of their effect on climate change or ocean acidification.

Section 2304. *International Air Pollution*: Provides that section 115 of the Clean Air Act shall not apply to an air pollutant with respect to that pollutant's contribution to global warming or ocean acidification.

Section 2305. *Retention of State Authority*: Includes in Title VIII of the Clean Air Act section 861, barring states from implementing or enforcing a cap-and-trade programs to control greenhouse gas emissions covered by Title VII.

Section 2306. *New Source Review*: Provides that New Source Review shall not apply to a major emitting facility that is initially permitted or modified after January 1, 2009, on the basis of its emissions of any greenhouse gases.

Section 2307. *Permit Programs*: Provides that greenhouse gases shall not be considered when determining whether a stationary source is required to operate pursuant to a permit under Title V.

#### Subtitle E – Regulation of Greenhouse Gas Markets

Sec. 2401. *Definitions*. Defines the terms in this subtitle.

Sec. 2402. *Jurisdiction of Commission; restriction of futures trading*. Gives jurisdiction over the trading of greenhouse gas instruments to the Commodity Futures Trading Commission. Prohibits off-exchange trading of greenhouse gas futures.

Sec. 2403. *Swap transactions*. Amends the Commodity Exchange Act (CEA) to regulate greenhouse gas instruments in the same manner as agricultural commodities.

Sec. 2404. *Excessive speculation*. Amends the CEA.

Sec. 4a. *Excessive speculation*. Requires the Commission to establish position limits to prevent excessive speculation. Allows greenhouse gas instrument trading organizations to apply even stricter regulations.

Sec. 2405. *Fraud prohibition*. Amends the CEA to include greenhouse gas instruments.

Sec. 2406. *Prohibited transactions*. Amends the CEA to include greenhouse gas instruments.

Sec. 2407. *Manipulation prohibition*. Amends the CEA to include greenhouse gas instruments.

Sec. 2408. *Trading of greenhouse gas instruments*. Establishes the requirements for the trading of greenhouse gas instruments. Restricts the market for greenhouse gas instruments to trading conducted on exchange and cleared through a carbon clearing organization. Restricts participation in this market to regulated carbon market participants and compliance entities registered with the Commission. Allows free trading of agreements, contracts, or transactions in a greenhouse gas instrument that do not provide for physical delivery.

Sec. 2409. *Registration for regulated greenhouse gas market participants and compliance entities*. Amends the CEA.

Sec. 4r. Registration for regulated greenhouse gas market participants and compliance entities. Requires the Commission to establish registration and reporting requirements for market participants.

Sec. 2410. *Greenhouse gas instrument trading organizations*. Amends the CEA  
Sec. 5h. *Greenhouse gas instrument trading organizations*. Requires the Commission to establish rules for the registration and operation of greenhouse gas instrument trading organizations. Allows trading organizations to include greenhouse gas instrument markets as well as contract markets. Sets compliance obligations for trading organizations, including the monitoring of markets, the provision of necessary information, the prevention of manipulation, and the enforcement of rules. Requires real time publication of trading information.

Sec. 2411. *Greenhouse gas clearing organizations*. Amends the CEA.  
Sec. 5b–1. *Greenhouse gas clearing organizations*. Requires application process for greenhouse gas clearing organizations including registration as a derivatives clearing organization pursuant to section 5b(c) of the CEA.

Sec. 2412. *Greenhouse gas instrument short sales*. Amends the CEA.  
Sec. 5i. *Short sale transactions*. Prohibits short sale transaction subject to terms and conditions of the Commission in consultation with EPA

Sec. 2413. *Greenhouse gas market emergency and suspension authority*. Amends the CEA.  
Sec. 8e. *Greenhouse gas market emergency and suspension authority*. Defines a greenhouse gas market emergency. Provides authority to the Commission to alter, supplement, suspend or impose requirements or restrictions as necessary and in the public interest in the case of a greenhouse gas market emergency and in consultation with relevant agencies. Sets limits on the duration and the trigger for these changes and provides for review.

Sec. 2414. *Territorial application*. Amends CEA to clarify applicability of rules and regulations outside the United States.

Sec. 2415. *Memorandum and information sharing*. Requires relevant agency heads to enter into a memorandum of understanding not later than one year after enactment that establishes procedures for information sharing, enforcement review, and jurisdictional clarity. Requires agencies to report on the sufficiency of enforcement provisions related to this act. Requires the Commissioner and the Administrator to enter into a memorandum of understanding to ensure the real-time determination of ownership of greenhouse gas instruments.

Sec. 2416. *Conforming amendments*. Provides for conforming amendments to the CEA.

#### Subtitle F – Miscellaneous

Section 2501. *Miscellaneous*. Amends Title VIII the Clean Air Act (as amended by section 2212(a)) to include the following sections:

*Section 806. State Programs*: Permits the Administrator to provide grants to air pollution control agencies for the purposes of implementation of programs to address climate change and provides

for consolidated state planning. Also, prohibits States from implementing or enforcing a “cap-and-trade program” to control greenhouse gas emissions.

*Section 807. Forestry Sector Greenhouse Gas Accounting:* Directs the Administrator, in consultation with the Secretary of Agriculture and the Secretary of Interior to provide an annual accounting of sequestration and emissions of greenhouse gases from forests and forest products.

*Section 808. Studies on Impacts of Renewable Biomass Use:* Directs the Administrator, in consultation with the Secretary of Agriculture and the Secretary of Interior, to conduct studies with recommendations and report them to Congress. These studies will focus on the impacts, both current and future, of the requirements of title VII on various matters including food production and the environment, relating to the use and combustion of renewable biomass and gas or liquid fuel derived from renewable biomass.

*Section 809. Review of Definition of Renewable Biomass:* Provides for a National Academies of Sciences study to evaluate how sources of renewable biomass contribute to the goals of increasing the energy independence of the United States, protecting the environment and reducing global warming pollution. In consultation with this study, the Administrator shall submit to Congress recommendations concerning any modification of the definition of “renewable biomass” in order to advance the goals of increasing energy independence, environmental protection and decreased global warming pollution.

Section 2502. *Enforcement:* Amends section 307(b) of the Clean Air Act to provide that in ruling on a petition for review under the Clean Air Act, the court may remand without overturning an action of the Administrator under specified circumstances. Sets deadline for the Administrator to respond to a court remand and take final action.

Section 2503. *Conforming amendments:* Provides for conforming amendments to Clean Air Act enforcement and administrative provisions to incorporate Titles VII and VIII.

### **TITLE III – CONSUMER PROTECTION**

#### Subtitle A – Investing in Low-Carbon Electricity and Energy Efficiency for Consumer Protection

Section 3001. *Electricity Consumers.*

*Section 782. Electricity consumers:* Beginning in 2013 and annually through 2029, the Administrator will distribute allowances to electricity local distribution companies for the benefit of retail ratepayers for the quantity of emissions allowances allocated for the following year. The allowances distributed are to be used exclusively for the benefit of the ratepayers of the electricity local distribution company. These allowances may not be used to support electricity sales or deliveries to individuals or entities other than those ratepayers.

#### Subtitle B – Investing in Low-Carbon Heating and Energy Efficiency for Consumer Protection

Section 3101. *Natural Gas Consumers.*

*Section 783. Natural gas consumers:* Between June 30, 2015 and annually through 2029, the Administrator will distribute to natural gas local distribution companies for the benefit of retail ratepayers the quantity of emission allowances allocated for the following year. The allowances are to be used exclusively for the benefit of retail ratepayers of the

natural gas local distribution company and may not be used to support natural gas sales or deliveries to individuals or entities other than those ratepayers.

Section 3102. *Home Heating Oil and Propane Consumers.*

*Section 784. Home heating oil and propane consumers:* Beginning in 2013 and annually through 2029, the Administrator will distribute emission allowances among states based on the carbon content of home heating oil and propane sold to consumers in the United States. The allowances are to be used exclusively for the benefit of consumers of home heating oil or propane for residential or commercial purposes.

Subtitle C – Consumer Relief

Section 3201. *Funding for Working Families Refundable Relief Program:* For each calendar year from 2013 through 2029, there will be funding available for working families relief program equal to 2.5 percent of the auction proceeds.

Section 3202. *Refundable Credit for Working Families Relief.*

*Section 36D. Working families relief.* Based on funding provided by section 3201, the Secretary of the Treasury will determine the amount of rebate available for consumers. Eligible households have income slightly below 150 percent of the poverty level, and the relief phases out at 250 percent of the poverty level. The relief amount will be adjusted by size for households up to five or more.

Section 3203. *Funding for Energy:* For each calendar year beginning in 2013, there will be funding available for the energy refund program equal to 12.5 percent of the auction proceeds.

Section 3204. *Energy Refund Program.*

*Section 2201. Energy refund program:* Amends the Social Security Act to establish an Energy Refund Program to provide monthly cash energy refunds to qualified households to compensate for effects of the Act.

Section 3205. *Study of Mechanisms for Delivering Universal Refund:* Requires the General Accounting Office to provide Congress with a report regarding the monthly delivery of a universal refund.

Section 3206. *Establishment of Universal Trust Fund:* Beginning in 2026, specified auction revenues are allocated to a Universal Trust Fund and 25 percent of the amounts deposited are used for deficit reduction and the remaining amounts are returned to consumers through the universal refund.

Section 3207. *Universal Refund.*

*Section 36E. Universal refund:* Starting in 2026, auction revenues will be distributed to consumers adjusted by household size. The Secretary of the Treasury will determine the amount rebate available for consumers and the amount will be delivered through the tax system.

Subtitle D – Advocating for Consumers

Section 3301. *Office of Consumer Advocacy:* Establishes an Office of Consumer Advocacy within the Federal Energy Regulatory Commission to identify and defend the consumer interest in proceedings before the Commission.

## TITLE IV – JOB PROTECTION AND GROWTH

### Subtitle A – Protecting American Manufacturing Jobs and Preventing Carbon Leakage

Section 4001. *Ensuring real reductions in industrial emissions*: Creates a program within Title VII of the Clean Air Act, as established by this Act, to ensure real reductions in industrial greenhouse gas emissions through emission allowance rebates and an international reserve allowance program.

#### PART F—Ensuring Real Reductions in Industrial Emissions.

Section 771. *Purposes*. Outlines purposes, including promoting a strong global effort to significantly reduce greenhouse gas emissions and prevent an increase in greenhouse gas emissions in foreign countries as a result of compliance costs incurred under Title VII of the Clean Air Act.

Section 772. *Definitions*. Defines the terms used in this Part.

#### Subpart 1 — *Emission Allowance Rebate Program*.

Sections 773. *Eligible Industrial Sectors*: Establishes a program that rebates emission allowances to eligible industrial sectors to compensate these sectors for costs incurred as a result of compliance with Title VII of the Clean Air Act, as added by this Act. Requires the Administrator to determine which sectors and subsectors should be eligible for rebates through a rulemaking based on an assessment of the energy and greenhouse gas intensity of each sector and the trade intensity of each sector. Provides an opportunity for industrial sub-sectors to petition the Administrator to designate as an eligible industrial sector under this part based upon evidence demonstrating that the industrial sub-sector meets the eligibility criteria, even if the sector, as defined by using a standard product classification, does not.

Section 774. *Distribution of Emission Allowance Rebates*: Instructs the EPA Administrator to annually distribute rebates to the owners and operators of entities in eligible industrial sectors. Requires the Administrator to determine which sectors should be eligible for rebates through a rulemaking based on an assessment of the energy and greenhouse gas intensity of each sector and the trade intensity of each sector. Sectors meeting the listed threshold for these criteria would be deemed eligible to receive rebates.

#### Subpart 2 – Promoting International Reductions in Industrial Emissions

Sections 775. *International Negotiations*. Finds that the purposes of this subtitle can be most effectively achieved through international agreements and states that it is the policy of the United States to work proactively under the UNFCCC and in other forums to establish binding agreements committing all major-emitting countries to contribute equitably to the reduction of global greenhouse gas emissions.

Section 776. *Presidential Reports and Determinations*. Requires the President to submit a report to Congress no later than January 1, 2019, and every two years thereafter, regarding the effectiveness of the distribution of emission allowance rebates under



Subpart 1 in mitigating the risk of increased greenhouse gas emissions in foreign countries resulting from compliance costs incurred under this bill.

Requires the President to establish an International Reserve Allowance Program if a multilateral agreement consistent with the statement of policy described in section 775 has not entered into force by January 1, 2020, unless the President determines that such program would not be in the national economic or environmental interest of the U.S. If the President establishes an International Reserve Allowance Program, this section requires the President to make a determination as soon as possible, but no later than June 30, 2023, and every two years thereafter, for each eligible industrial sector, of whether not more than 70 percent of global production with respect to that sector is produced or manufactured in countries that meet specific criteria described in this section.

Section 777. *International Reserve Allowance Program.* Directs the Administrator, with the concurrence of the Commissioner of Customs, to promulgate regulations establishing an international reserve allowance program. Includes provisions in addition to the reserve allowance program to mitigate or address carbon leakage by ensuring that eligible sectors may receive additional emission allowance rebates in an amount necessary to address those impacts.

Section 778. *Iron and Steel Sector:* Requires the Administrator to consider steel made using integrated steel making technologies and steel made using electric arc furnace technologies as a single sector for the purposes of Subpart 2.

Section 4002. *Domestic Fuel Production.*

Section 796. *Allocations to refineries:* Instructs the EPA Administrator to annually distribute allowances to refineries according to a fixed formula based on the intensity factor of individual refineries and the intensity of the refinery industry as a whole.

Section 4003. *Advanced Energy Project Credit:* Increases the allocation for the advanced energy project credit by \$5 billion.

Section 4004. *Report on the Utilization of Tax Incentives:* Requires GAO to report to Congress by the end of 2011 on the utilization of energy related tax incentives.

Subtitle B -- Clean Energy Technology and Jobs

Part I – Clean Energy Career Development

Sec. 4101. *Clean Energy Curriculum Development Grants:* Authorizes the Secretary of Education to award grants, on a competitive basis, to eligible partnerships to develop programs of study focused on emerging careers and jobs in the fields of clean energy, renewable energy, energy efficiency, climate change mitigation, and climate change adaptation.

Sec. 4102. *Development of information and resources clearinghouse for vocational education and job training in renewable energy sectors:* Requires the Secretary of Labor, in collaboration with the Secretary of Energy and the Secretary of Education, to develop an internet-based information and resources clearinghouse to aid career and technical education and job training programs for the renewable energy sectors.

Sec. 4103. *Clean energy construction careers demonstration project*: Requires the Secretary of Labor, in consultation with the Secretary of Energy, to establish a Green Construction Careers demonstration project to promote careers and quality employment practices in the green construction sector and to advance efficiency and performance on construction projects related to the Act.

## Part II – Transportation

### Subpart A – Investing in Clean Vehicles.

Section 4111. *Investing in Clean Vehicles*: Establishes a “Clean Vehicle Technology Fund” within Treasury to enable EPA to provide grants to manufacturers and component suppliers to refurbish or expand existing manufacturing facilities to produce advanced technology vehicles and to support engineering integration of certain vehicles and components such as plug-in electric drive vehicles.

### Subpart B – Powering Vehicles with Natural Gas.

Section 4121. *Credit for Qualified Natural Gas Motor Vehicles*: Extends and doubles for 10 years the alternative fuel credits for purchase of natural gas vehicles that have a weight greater than 8,500 pounds and are only capable of operating on compressed or liquefied natural gas or capable of operating for more than 175 miles on one fueling of compressed or liquefied natural gas and is capable of operating on gasoline or diesel fuel. Also, extends and doubles the credit for vehicles of weight less than 8,500 pounds for commercial fleet vehicles of at least ten cars and purchases of at least three natural gas vehicles. Modifies the definition of mixed fuel vehicle to include a vehicle which is capable of operating on compressed or liquefied natural gas and operates at 65 percent compressed or liquefied natural gas and not more than 35 percent petroleum-based fuel.

#### Section 4122 *Natural Gas Vehicle Bonds*.

*Section 54G. Natural gas vehicle bonds*. Allows state and local governmental entities to issue tax credit bonds in order to finance natural gas vehicle projects. Provides a national limitation amount of \$3 billion.

#### Section 4123. *Incentives for Manufacturing Facilities Producing Vehicles Fueled by Compressed or Liquefied Natural Gas*.

*Section 179F. Expensing for manufacturing facilities producing vehicles fueled by compressed natural gas or liquefied natural gas*: Allows 100 percent of the cost of a natural gas vehicle manufacturing facility that is placed in service before January 1, 2015 to be expensed and to be treated as a deduction in the taxable year in which the facility was placed in service. Allows 50 percent of the cost to be expensed for a facility placed in service after December 31, 2014 and before January 1, 2020.

Section 4124. *Study of increasing natural gas and liquefied petroleum gas vehicles in federal fleet*: Directs the Administrator of General Services, in consultation with the Administrator and Secretary, to conduct a study for how the Federal fleet could increase the number of light-, medium-, and heavy-duty natural gas and liquefied petroleum gas vehicles in the fleet and report this study to Congress no later than 180 days after the date of enactment of this Act.

### Subpart C- Community Information.

[Section 4131. *Notice of Hydraulic Fracturing Operations*: Amends Section 324 of the Emergency Planning and Community Right-To-Know Act of 1986 to include a mandate that a hydraulic fracturing service company must disclose all chemical constituents used in a hydraulic fracturing operation to the public on the Internet in order to provide adequate information for the public and State and local authorities.]

Subpart D– Additional Greenhouse Gas Standards.

Section 4141. *Emission standards for mobile sources*. Amends Title VIII of the Clean Air Act to direct the Administrator to promulgate standards applicable to emissions of greenhouse gases from various classes and categories of mobile sources, subject to some exclusions and revisions.

### Part III – Agriculture

Section 4151 – *Definitions*. Defines the terms used in this part.

Section 4152 – *Carbon conservation program*. Establishes a program for investing in agriculture and forestry projects to sequester carbon and reduce greenhouse gas emissions.

Section 4153 – *Carbon conservation fund*. Directs that a “Carbon Conservation Fund” be established in the Treasury to carry out this part.

### Part IV — Manufacturing and Technology

Section 4161. *Low-Carbon Industrial Technologies Research and Development*: Establishes a federally funded research and development center to support development and demonstration of technology that provides immediate and long-term direct improvement in the competitiveness of and job creation in the domestic manufacturing sector.

Section 4162. *Technical amendments*: Describes the technical amendments required to carry out this part.

## TITLE V – INTERNATIONAL CLIMATE CHANGE ACTIVITIES

Section 5001. *Statement of Policy*: Outlines the policy of the United States with respect to the international impacts of global climate change and the important role supporting international efforts to address these impacts plays in protecting America’s national security, growing our economy, and reducing global pollution.

Section 5002. *Definitions*: Defines terms for this title.

Section 5003. *Strategic Interagency Board on International Climate Investment*: Directs the President to establish the Strategic Interagency Board on International Climate Investment, composed of the Secretary of State, the Administrator of EPA, and other Federal officials, to assess, monitor and evaluate the progress and contributions of U.S. Government entities in supporting financing for international climate change activities.

Section 5004. *Emissions reductions through reduced deforestation*: Directs the Administrator of the United States Agency for International Development, in consultation with the Administrator of EPA, the

Secretary of Agriculture, and the heads of any other appropriate agencies to establish a program to build capacity in developing countries to reduce emissions from deforestation.

Section 5005. *International climate change adaptation and global security program*: Directs the Secretary of State, in consultation with the Administrator of USAID, the Secretary of the Treasury, and EPA to establish a program to provide assistance to the most vulnerable developing countries to protect and promote the interests of the United States.

Section 5006. *Evaluation and Reports*: Requires the establishment of a system to monitor and evaluate the effectiveness and efficiency of assistance provided under this title and includes reports and periodic reviews to be submitted to Congress.

Section 5007. *Report on Major Economies Climate Actions*: Requires the Secretary of State, working with the Strategic Interagency Board, to prepare annually an interagency report on the climate change and energy policies of the top five largest greenhouse gas emitting countries that are not members of the Organization for Economic Co-Operation and Development. Requires the report to provide Congress and the American public with a better understanding of the actions these countries are taking to reduce greenhouse gas emissions and to identify how the United States can assist these countries in achieving these reductions.

## **TITLE VI – COMMUNITY PROTECTION FROM GLOBAL WARMING IMPACTS**

Section 6001-6003. *Definitions; Council on Environmental Quality; Natural Resources Climate Change Adaptation Panel*: States the policy of the Federal Government to use all practicable means and measures to assist natural resources to adapt to climate change. Establishes a Natural Resources Climate Change Adaptation Panel, chaired by the White House Council on Environmental Quality, as a forum for interagency coordination on natural resources adaptation.

Section 6004. *Natural Resources Climate Change Adaptation Strategy*: Requires the Adaptation Panel to develop a strategy for making natural resources more resilient to the impacts of climate change and ocean acidification. The strategy is to assess likely impacts to natural resources, strategies for helping wildlife adapt, and specific actions that Federal agencies should take.

Section 6005. *Natural resources adaptation science and information*: Establishes a process through the National Oceanic and Atmospheric Administration and the U.S. Geological Survey National Global Warming and Wildlife Science Center, to provide technical assistance, conduct research, and furnish decision tools, monitoring, and strategies for adaptation.

Section 6006. *Federal natural resource agency adaptation plans*: Requires Federal agencies to develop natural resource adaptation plans, consistent with the National Adaptation Strategy, including prioritized goals and a schedule for implementation of adaptation programs within their respective jurisdictions.

Section 6007. *State natural resources adaptation plans*: Requires States to develop Natural Resources Adaptation Plans as a condition for receiving funds under the programs in this subtitle.

Section 6008. *Natural Resources Climate Change Adaptation Account*: Provides that allowances devoted to state natural resources adaptation be distributed to the States; funds placed in the Natural Resources Climate Change Adaptation Fund are to be distributed to Federal agencies; All funds must be used for adaptation activities, and States shall ensure that a minimum of 10 percent of project costs are paid by non-Federal sources.

Section 6009. *National Fish and Wildlife Habitat and Corridors Information Program*: Establishes a program in the DOI to support States and tribes in the development of a geographical information system of databases of fish and wildlife habitats and corridors. Facilitates the use of database tools in wildlife management programs.

Section 6010. *Additional provisions regarding Indian tribes*: Clarifies that nothing in this subpart amends Federal trust responsibilities to Indian tribes or exempts information on tribal sacred sites or cultural activities from the Freedom of Information Act, and clarifies that DOI may apply the provisions of the Indian Self-Determination and Education Assistance Act as appropriate.

Section 6011. *Additional Climate Change Adaptation Programs*: Provides the Administrator with the ability to establish additional climate change programs to address key priorities including water management, fire protection, and coastal watersheds.

## **TITLE VII —BUDGETARY EFFECTS**

Section 7001. *Budgetary Effects*: Statutory PAYGO applies to this legislation.