

1 **TITLE IV—TRANSITIONING TO A**
2 **CLEAN ENERGY ECONOMY**
3 **Subtitle A—Ensuring Real**
4 **Reductions in Industrial Emissions**

5 **SEC. 401. ENSURING REAL REDUCTIONS IN INDUSTRIAL**
6 **EMISSIONS.**

7 Title VII of the Clean Air Act is amended by insert-
8 ing after part E the following new part:

9 **“PART F—ENSURING REAL REDUCTIONS IN**
10 **INDUSTRIAL EMISSIONS**

11 **“SEC. 761. PURPOSES.**

12 “The purposes of this part are—

13 “(1) to promote a strong global effort to signifi-
14 cantly reduce greenhouse gas emissions, and,
15 through this global effort, stabilize greenhouse gas
16 concentrations in the atmosphere at a level that will
17 prevent dangerous anthropogenic interference with
18 the climate system;

19 “(2) to prevent an increase in greenhouse gas
20 emissions in countries other than the United States
21 as a result of direct and indirect compliance costs in-
22 curred under this title;

1 “(3) to provide a rebate to the owners and op-
2 erators of entities in domestic eligible industrial sec-
3 tors for their greenhouse gas emission costs incurred
4 under this title, but not for costs associated with
5 other related or unrelated market dynamics;

6 “(4) to design such rebates in a way that will
7 prevent carbon leakage while also rewarding innova-
8 tion and facility-level investments in energy effi-
9 ciency performance improvements; and

10 “(5) to eliminate or reduce distribution of emis-
11 sion allowances under this part when such distribu-
12 tion is no longer necessary to prevent carbon leakage
13 from eligible industrial sectors.

14 **“SEC. 762. DEFINITIONS.**

15 “In this part:

16 “(1) CARBON LEAKAGE.—The term ‘carbon
17 leakage’ means any substantial increase (as deter-
18 mined by the Administrator) in greenhouse gas
19 emissions by industrial entities located in other
20 countries if an incremental cost of production in-
21 crease in the United States resulting from the imple-
22 mentation of this title contributes materially to
23 cause such increase.

24 “(2) ELIGIBLE INDUSTRIAL SECTOR.—The
25 term ‘eligible industrial sector’ means an industrial

1 sector determined by the Administrator under sec-
2 tion 763(b) to be eligible to receive emission allow-
3 ance rebates under this part.

4 “(3) INDUSTRIAL SECTOR.—The term ‘indus-
5 trial sector’ means any sector that is in the manu-
6 facturing sector (as defined in NAICS codes 31, 32,
7 and 33).

8 “(4) NAICS.—The term ‘NAICS’ means the
9 North American Industrial Classification System of
10 2002.

11 “(5) OUTPUT.—The term ‘output’ means the
12 total tonnage or other standard unit of production
13 (as determined by the Administrator) produced by
14 an entity in an industrial sector. The output of the
15 cement sector is hydraulic cement, and not clinker.

16 **“SEC. 763. ELIGIBLE INDUSTRIAL SECTORS.**

17 “(a) LIST.—

18 “(1) INITIAL LIST.—Not later than June 30,
19 2011, the Administrator shall publish in the Federal
20 Register a list of eligible industrial sectors pursuant
21 to subsection (b). Such list shall include the amount
22 of the emission allowance rebate per unit of produc-
23 tion for which entities in each eligible industrial sec-
24 tor are eligible in the following two calendar years
25 pursuant to section 764.

1 “(I) an energy intensity of at
2 least 5 percent, calculated by dividing
3 the cost of purchased electricity and
4 fuel costs of the sector by the value of
5 the shipments of the sector, based on
6 data described in subparagraph (E);
7 or

8 “(II) a greenhouse gas intensity
9 of at least 5 percent, calculated by di-
10 viding—

11 “(aa) the number 20 multi-
12 plied by the number of tons of
13 carbon dioxide equivalent green-
14 house gas emissions (including
15 direct emissions from fuel com-
16 bustion, process emissions, and
17 indirect emissions from the gen-
18 eration of electricity used to
19 produce the output of the sector)
20 of the sector based on data de-
21 scribed in subparagraph (E); by

22 “(bb) the value of the ship-
23 ments of the sector, based on
24 data described in subparagraph
25 (E).

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“(iii) TRADE INTENSITY.—As determined by the Administrator, the industrial sector had a trade intensity of at least 15 percent, calculated by dividing the value of the total imports and exports of such sector by the value of the shipments plus the value of imports of such sector, based on data described in subparagraph (E).

“(iv) VERY HIGH ENERGY OR GREENHOUSE GAS INTENSITY.—As determined by the Administrator, the industrial sector had an energy or greenhouse gas intensity, as calculated under clause (ii)(I) or (II), of at least 20 percent.

“(B) IRON AND STEEL SECTOR.—For purposes of this part, in carrying out this section and section 764, the Administrator shall consider as in different industrial sectors—

“(i) entities using integrated iron and steelmaking technologies (including coke

1 ovens, blast furnaces, and other iron-mak-
2 ing technologies); and

3 “(ii) entities using electric arc furnace
4 technologies.

5 “(C) METAL AND PHOSPHATE PRODUC-
6 TION CLASSIFIED UNDER MORE THAN ONE
7 NAICS CODE.—For purposes of this part, in car-
8 rying out this section and section 764, the Ad-
9 ministrator shall—

10 “(i) aggregate data for the
11 beneficiation or other processing of iron
12 and copper ores and phosphate with subse-
13 quent steps in the process of metal and
14 phosphate manufacturing regardless of the
15 NAICS code under which such activity is
16 classified; and

17 “(ii) aggregate data for the manufac-
18 turing of steel with the manufacturing of
19 steel pipe and tube made from purchased
20 steel in a nonintegrated process.

21 “(D) EXCLUSION.—The petroleum refining
22 sector shall not be an eligible industrial sector.

23 “(E) DATA SOURCES.—

24 “(i) ELECTRICITY AND FUEL COSTS,
25 VALUE OF SHIPMENTS.—The Adminis-

1 trator shall determine electricity and fuel
2 costs and the value of shipments under
3 this subsection from data from the United
4 States Census of Mineral Industries and
5 the United States Census Annual Survey
6 of Manufacturers. The Administrator shall
7 take the average of data from as many of
8 the years of 2004, 2005, and 2006 for
9 which such data are available. If such data
10 are unavailable, the Administrator shall
11 make a determination based upon 2002 or
12 2006 data from the most detailed indus-
13 trial classification level of the Energy In-
14 formation Agency's Manufacturing Energy
15 Consumption Survey (using 2006 data if it
16 is available) and the 2002 or 2007 Eco-
17 nomic Census of the United States (using
18 2007 data if it is available). If data from
19 the Manufacturing Energy Consumption
20 Survey are unavailable for any sector at
21 the six-digit classification level in the
22 NAICS, then the Administrator may ex-
23 trapolate the information necessary to de-
24 termine the eligibility of a sector under
25 this paragraph from available Manufac-

1 turing Energy Consumption Survey data
2 pertaining to a broader industrial category
3 classified in the NAICS. Fuel cost data
4 shall not include the cost of fuel used as
5 feedstock by an industrial sector.

6 “(ii) IMPORTS AND EXPORTS.—The
7 Administrator shall base the value of im-
8 ports and exports under this subsection on
9 United States International Trade Com-
10 mission data. The Administrator shall take
11 the average of data from as many of the
12 years of 2004, 2005, and 2006 for which
13 such data are available.

14 “(iii) PERCENTAGES.—The Adminis-
15 trator shall round the energy intensity,
16 greenhouse gas intensity, and trade inten-
17 sity percentages under subparagraph (A)
18 to the nearest whole number.

19 “(iv) GREENHOUSE GAS EMISSION
20 CALCULATIONS.—When calculating the
21 tons of carbon dioxide equivalent green-
22 house gas emissions for each sector under
23 subparagraph (A)(i)(II)(aa), the Adminis-
24 trator—

1 “(I) shall use the best available
2 data from as many of the years 2004,
3 2005, and 2006 for which such data
4 is available; and

5 “(II) may, to the extent nec-
6 essary with respect to a sector, use
7 economic and engineering models and
8 the best available information on tech-
9 nology performance levels for such
10 sector.

11 “(3) ADMINISTRATIVE DETERMINATION OF AD-
12 DITIONAL ELIGIBLE INDUSTRIAL SECTORS.—

13 “(A) INDIVIDUAL SHOWING PETITION.—

14 “(i) PETITION.—The owner or oper-
15 ator of an entity in an industrial sector
16 may petition the Administrator to des-
17 ignate as an eligible industrial sector under
18 this part an entity or a group of entities
19 that—

20 “(I) represent a subsector of a
21 six-digit section of the NAICS code;
22 and

23 “(II) meet the eligibility criteria
24 in both clauses (i) and (ii) of para-

1 graph (2)(A), or the eligibility criteria
2 in clause (iii) of paragraph (2)(A).

3 “(ii) DATA.—In making a determina-
4 tion under this subparagraph, the Admin-
5 istrator shall consider data submitted by
6 the petitioner that is specific to the entity,
7 data solicited by the Administrator from
8 other entities in the subsector, if such
9 other entities exist, and data specified in
10 paragraph (2)(E).

11 “(iii) BASIS OF SUBSECTOR DETER-
12 MINATION.—The Administrator shall de-
13 termine an entity or group of entities to be
14 a subsector of a six-digit section of the
15 NAICS code based only upon the products
16 manufactured and not the industrial proc-
17 ess by which the products are manufac-
18 tured, except that the Administrator may
19 determine an entity or group of entities
20 that manufacture a product from a virgin
21 material to be a separate subsector from
22 another entity or group of entities that
23 manufacture the same product from recy-
24 cled material.

1 “(iv) FINAL ACTION.—The Adminis-
2 trator shall take final action on such peti-
3 tion no later than 6 months after the peti-
4 tion is received by the Administrator.

5 “(B) UPDATED TRADE INTENSITY DATA.—
6 The Administrator shall designate as eligible to
7 receive emission allowance rebates under this
8 part an industrial sector that—

9 “(i) met the energy or greenhouse gas
10 intensity criteria in paragraph (2)(A)(i) as
11 of the date of promulgation of the rule
12 under paragraph (1); and

13 “(ii) meets the trade intensity criteria
14 in paragraph (2)(A)(ii), using data from
15 any year after 2006.

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21 “(C) USE OF MOST RECENT DATA.—In de-
22 termining whether to designate a sector or sub-
23 sector as an eligible industrial sector under this
24 paragraph, the Administrator shall use the
25 most recent data available from the sources de-

1 pursuant to section 904(d)(3)(A) of the Tariff
2 Act of 1930 for a sector—

3 “(i) 90 percent for vintage year 2026;

4 “(ii) 80 percent for vintage year
5 2027;

6 “(iii) 70 percent for vintage year
7 2028;

8 “(iv) 60 percent for vintage year
9 2029;

10 “(v) 50 percent for vintage year 2030;

11 “(vi) 40 percent for vintage year
12 2031;

13 “(vii) 30 percent for vintage year
14 2032;

15 “(viii) 20 percent for vintage year
16 2033;

17 “(ix) 10 percent for vintage year
18 2034; and

19 “(x) 0 percent for vintage year 2035
20 and thereafter.

21 “(2) RESUMPTION OF REDUCTION.—If the
22 President has modified the percentage stated in
23 paragraph (1)(B) under section 904(d)(3)(A) of the
24 Tariff Act of 1930, and the President subsequently
25 makes a determination under section 904(c) of such

1 Act for an eligible industrial sector that more than
2 85 percent of United States imports for that sector
3 are produced or manufactured in countries that have
4 met at least one of the criteria in that section, then
5 the reduction schedule set forth in paragraph (1)(B)
6 of this subsection shall begin in the next vintage
7 year, with the percentage reduction based on the
8 amount of the distribution of emission allowances
9 under this section in the previous year.

10 “(3) NEWLY ELIGIBLE SECTORS.—In addition
11 to receiving a distribution of emission allowances
12 under this section in the first distribution occurring
13 after an industrial sector is designated as eligible
14 under section 763(b)(3), the owner or operator of an
15 entity in that eligible industrial sector may receive a
16 prorated share of any emission allowances made
17 available for distribution under this section that
18 were not distributed for the year in which the peti-
19 tion for eligibility was granted under section
20 763(b)(3)(A).

21 “(b) CALCULATION OF DIRECT AND INDIRECT CAR-
22 BON FACTORS.—

23 “(1) IN GENERAL.—

24 “(A) COVERED ENTITIES.—Except as pro-
25 vided in subsection (a), for covered entities that

1 are in an eligible industrial sector, the amount
2 of emission allowance rebates shall be based on
3 the sum of the covered entity's direct and indi-
4 rect carbon factors.

5 “(B) OTHER ELIGIBLE ENTITIES.—For
6 entities that are in an eligible industrial sector
7 but are not covered entities, the amount of
8 emission allowance rebates shall be based on
9 the entity's indirect carbon factor.

10 “(C) NEW ENTITIES.—Not later than 2
11 years after the date of enactment of this title,
12 the Administrator shall issue regulations gov-
13 erning the distribution of emission allowance re-
14 bates for the first and second years of operation
15 of a new entity in an eligible industrial sector.
16 These regulations shall provide for—

17 “(i) the distribution of emission allow-
18 ance rebates to such entities based on com-
19 parable entities in the same sector; and

20 “(ii) an adjustment in the third and
21 fourth years of operation to reconcile the
22 total amount of emission allowance rebates
23 received during the first and second years
24 of operation to the amount the entity
25 would have received during the first and

1 second years of operation had the appro-
2 priate data been available.

3 “(2) DIRECT CARBON FACTOR.—The direct car-
4 bon factor for a covered entity for a vintage year is
5 the product of—

6 “(A) the average **【annual?】** output of the
7 covered entity for the two years preceding the
8 year of the distribution; and

9 “(B) the most recent calculation of the av-
10 erage direct greenhouse gas emissions (ex-
11 pressed in tons of carbon dioxide equivalent)
12 per unit of output for all covered entities in the
13 sector, as determined by the Administrator
14 under paragraph (4).

15 “(3) INDIRECT CARBON FACTOR.—

16 “(A) IN GENERAL.—The indirect carbon
17 factor for an entity for a vintage year is the
18 product obtained by multiplying the average
19 **【annual?】** output of the entity for the two
20 years preceding the years of the distribution by
21 both the electricity emissions intensity factor
22 determined pursuant to subparagraph (B) and
23 the electricity efficiency factor determined pur-
24 suant to subparagraph (C) for the year con-
25 cerned.

1 “(B) ELECTRICITY EMISSIONS INTENSITY
2 FACTOR.—Each person selling electricity to the
3 owner or operator of an entity in any sector
4 designated as an eligible industrial sector under
5 section 763(b) shall provide the owner or oper-
6 ator of the entity and the Administrator, on an
7 annual basis, the electricity emissions intensity
8 factor for the entity. The electricity emissions
9 intensity factor for the entity, expressed in tons
10 of carbon dioxide equivalents per kilowatt hour,
11 is determined by dividing—

12 “(i) the annual sum of the hourly
13 product of—

14 “(I) the electricity purchased by
15 the entity from that person in each
16 hour (expressed in kilowatt hours),
17 multiplied by

18 “(II) the marginal or weighted
19 average tons of carbon dioxide equiva-
20 lent per kilowatt hour that the person
21 selling the electricity charges to the
22 entity, taking into account the entity’s
23 retail rate arrangements, by

1 tons of carbon dioxide equivalent) per unit of output
2 for all covered entities in each eligible industrial sec-
3 tor every four years using the best available data for
4 the two most recent years.

5 “(5) ENSURING EFFICIENCY IMPROVEMENTS.—
6 When making greenhouse gas calculations, the Ad-
7 ministrator shall—

8 “(A) limit the average direct greenhouse
9 gas emissions per unit of output, calculated
10 under paragraph (4), for any eligible industrial
11 sector to an amount that is not greater than it
12 was in any previous calculation under this sub-
13 section for that eligible industrial sector; and

14 “(B) limit the electricity emissions inten-
15 sity factor, calculated under paragraph (3)(B)
16 and resulting from a change in electricity sup-
17 ply, for any entity to an amount that is not
18 greater than it was during any previous year
19 for that entity.

20 “(6) DATA SOURCES.—For the purposes of this
21 subsection—

22 “(A) the Administrator shall use data from
23 the greenhouse gas registry, established under
24 section 713, where it is available; and

1 **“TITLE IX—PROMOTING INTER-**
2 **NATIONAL REDUCTIONS IN**
3 **INDUSTRIAL EMISSIONS**

“TITLE IX—PROMOTING INTERNATIONAL REDUCTIONS IN
INDUSTRIAL EMISSIONS

“Sec. 901. Purposes.

“Sec. 902. International negotiations.

“Sec. 903. United States negotiating objectives with respect to multilateral environmental negotiations.

“Sec. 904. Presidential reports and determinations.

“Sec. 905. International reserve allowance program.

“Sec. 906. Iron and steel sector.

“Sec. 907. Definitions.

4 **“SEC. 901. PURPOSES.**

5 “The purposes of this title are—

6 “(1) to promote a strong global effort to signifi-
7 cantly reduce greenhouse gas emissions, and,
8 through this global effort, stabilize greenhouse gas
9 concentrations in the atmosphere at a level that will
10 prevent dangerous anthropogenic interference with
11 the climate system;

12 “(2) to prevent an increase in greenhouse gas
13 emissions in countries other than the United States
14 as a result of direct and indirect compliance costs in-
15 curred under this title;

16 “(3) to induce foreign countries, and in par-
17 ticular, fast-growing developing countries, to take
18 action with respect to their greenhouse gas emissions
19 that is comparable in effect to that achieved in the

1 United States, including through the implementation
2 of this title; and

3 “(4) to ensure that the measures described in
4 this title are designed and implemented in a manner
5 consistent with applicable international agreements
6 to which the United States is a party.

7 **“SEC. 902. INTERNATIONAL NEGOTIATIONS.**

8 “(a) FINDING.—Congress finds that the purposes of
9 this title, as set forth in section 901, can be most effec-
10 tively addressed and achieved through agreements nego-
11 tiated between the United States and foreign countries.

12 “(b) STATEMENT OF POLICY.—It is the policy of the
13 United States to work proactively under the United Na-
14 tions Framework Convention on Climate Change, and in
15 other appropriate fora, to establish binding agreements,
16 including sectoral agreements, committing all major
17 greenhouse gas-emitting nations to contribute equitably to
18 the reduction of global greenhouse gas emissions.

19 “(c) NOTIFICATION OF FOREIGN COUNTRIES.—

20 “(1) IN GENERAL.—As soon as practicable
21 after the date of the enactment of this title, the
22 President shall provide a notification on climate
23 change described in paragraph (2) to each foreign
24 country the products of which are not exempted
25 under section 905(a)(1)(E).

1 “(2) NOTIFICATION DESCRIBED.—A notifica-
2 tion described in this paragraph is a notification
3 that consists of—

4 “(A) a statement of the policy of the
5 United States described in subsection (b);

6 “(B) a declaration—

7 “(i) requesting the foreign country to
8 take appropriate measures to limit the
9 greenhouse gas emissions of the foreign
10 country in order to achieve the purposes of
11 this title, as set forth in section 901; and

12 “(ii) indicating that, beginning on
13 January 1, 2020, or such earlier date if
14 necessary to avoid carbon leakage in an eli-
15 gible industrial sector, the international re-
16 serve requirements of this title may apply
17 to a covered good; and

18 “(C) an estimate of the percentage change
19 in greenhouse gas emissions that the United
20 States expects to achieve annually through Fed-
21 eral, State, and local measures during the 10-
22 year period beginning on January 1, 2012, as
23 compared to nationwide emissions levels during
24 calendar year 2005.

1 **“SEC. 903. UNITED STATES NEGOTIATING OBJECTIVES**
2 **WITH RESPECT TO MULTILATERAL ENVIRON-**
3 **MENTAL NEGOTIATIONS.**

4 “(a) IN GENERAL.—The negotiating objectives of the
5 United States with respect to multilateral environmental
6 negotiations described in this title are to—

7 “(1) reach an internationally binding and en-
8 forceable agreement in which all major greenhouse
9 gas-emitting nations contribute equitably to the re-
10 duction of global greenhouse gas emissions;

11 “(2) include in such international agreement
12 provisions that recognize and address the competi-
13 tive imbalances that may be created in domestic and
14 export markets between countries signatory to the
15 agreement and non-signatory countries, as well as
16 among signatory countries at least until such coun-
17 tries have undertaken and implemented sufficiently
18 comparable environmental obligations;

19 “(3) include in such international agreement
20 provisions by which countries signatory to the agree-
21 ment agree to apply, with respect to imports from
22 countries not signatories to the agreement, border
23 measures designed to minimize or avoid any carbon
24 leakage from the signatory countries to the non-sig-
25 natory countries, including border measures that
26 may—

1 “(A) require the purchase of allowances (or
2 the agreement-country equivalent thereof) in a
3 volume based upon the industry-specific average
4 volume of emissions per unit of output for the
5 country of origin; and

6 “(B) require the purchase of allowances
7 (or the agreement-country equivalent thereof)
8 at a price equal to the highest market price for
9 such allowances in any agreement country;

10 “(4) include in such international agreement
11 provisions by which countries signatory to the agree-
12 ment confirm that, until such time as the signatory
13 countries have undertaken and implemented suffi-
14 ciently comparable environmental obligations—

15 “(A) signatory countries may maintain do-
16 mestic programs providing rebates or free al-
17 lowances to energy intensive industries in order
18 to minimize any migration of such industries to
19 agreement countries that have not yet fully im-
20 plemented their domestic greenhouse gas emis-
21 sion reduction programs; and

22 “(B) ensure that such rebates or free al-
23 lowances do not exceed the cost or number of
24 allowances required to meet the direct and indi-
25 rect cost of compliance with the greenhouse gas

1 emission reduction requirements in the signa-
2 tory country; and

3 “(5) include in such international agreement
4 agreed remedies for any country signatory to the
5 agreement that fails to meet its greenhouse gas re-
6 duction obligations in the agreement.

7 “(b) RULE OF CONSTRUCTION.—Nothing in sub-
8 section (a)(4) shall be construed to require the United
9 States to alter the provisions of section 764 of the Clean
10 Air Act.

11 **“SEC. 904. PRESIDENTIAL REPORTS AND DETERMINA-**
12 **TIONS.**

13 “(a) REPORT.—Not later than January 1, 2016, and
14 every 2 years thereafter, the President shall submit a re-
15 port to Congress on the effectiveness of the distribution
16 of emission allowance rebates under part F of title VII
17 of the Clean Air Act in mitigating carbon leakage in eligi-
18 ble industrial sectors. Such report shall also include—

19 “(1) an assessment, for each eligible industrial
20 sector receiving emission allowance rebates, as to
21 whether, and by how much, the per unit cost of pro-
22 duction has increased for that sector as a result of
23 compliance with section 722 of the Clean Air Act (as
24 determined in a manner consistent with section
25 764(b) of such Act), notwithstanding the provision

1 of the emission allowance rebates to that industrial
2 sector;

3 “(2) recommendations on how to better achieve
4 the purposes of this title, including an assessment of
5 the feasibility and usefulness of an international re-
6 serve allowance program for the eligible industrial
7 sector under section 905;

8 “(3) to the extent the President determines that
9 an international reserve allowance program would
10 not be useful for the eligible industrial sector be-
11 cause its exposure to carbon leakage is the result of
12 competition in export markets with goods produced
13 in countries not implementing similar greenhouse
14 gas emission reduction policies, an identification of
15 alternative actions or programs consistent with the
16 purposes of this title, and the President should im-
17 plement, to the extent appropriate, such alternative
18 actions or programs; and

19 “(4) an assessment of the amount and duration
20 of assistance, including distribution of free allow-
21 ances, being provided to industrial sectors in other
22 developed countries to mitigate costs of compliance
23 with domestic greenhouse gas reduction programs in
24 such countries.

25 “(b) PRESIDENTIAL DETERMINATION.—

1 “(1) IN GENERAL.—If, by January 1, 2017 (in
2 a case in which section 905(c)(2)(B) applies by that
3 date), or by January 1, 2018 (in any other case), a
4 multilateral agreement consistent with the negoti-
5 ating objectives set forth in section 903 has not en-
6 tered into force with respect to the United States,
7 the President shall establish an international reserve
8 allowance program to the extent provided under sec-
9 tion 905 unless—

10 “(A) the President determines and certifies
11 to the Congress that such program would not
12 be in the national economic interest or environ-
13 mental interest of the United States; and

14 “(B) not later than 90 days after the
15 President transmits the certification described
16 in subparagraph (A), a joint resolution is en-
17 acted into law that approves the determination
18 of the President described in subparagraph (A).

19 “(2) CONTENTS OF JOINT RESOLUTION.—For
20 purposes of this subsection, the term ‘joint resolu-
21 tion’ means only a joint resolution of the two Houses
22 of Congress, the matter after the resolving clause of
23 which is as follows: ‘That the Congress approves the
24 determination of the President under section
25 905(b)(1)(A) of the Tariff Act of 1930 transmitted

1 to the Congress on _____.’, the blank space
2 being filled with the appropriate date.

3 “(3) CONGRESSIONAL PROCEDURES.—Sub-
4 sections (c), (d), (e), and (f) of section 152 of the
5 Trade Act of 1974 (19 U.S.C. 2192 (c), (d), (e),
6 and (f)) shall apply to a joint resolution under this
7 subsection to the same extent as such subsections
8 apply to a joint resolution under section 152 of such
9 Act.

10 “(c) DETERMINATIONS WITH RESPECT TO ELIGIBLE
11 INDUSTRIAL SECTORS.—If the President establishes an
12 international reserve allowance program pursuant to sub-
13 section (b), then not later than June 30, 2018, and every
14 four years thereafter, the President, in consultation with
15 the Administrator and other appropriate agencies, shall
16 determine, for each eligible industrial sector, whether or
17 not more than 85 percent of United States imports of cov-
18 ered goods with respect to that sector are produced or
19 manufactured in countries that have met at least one of
20 the following criteria:

21 “(1) The country is a party to an international
22 agreement to which the United States is a party
23 that includes a nationally enforceable greenhouse gas
24 emissions reduction commitment for that country

1 that is at least as stringent as that of the United
2 States.

3 “(2) The country has implemented policies, in-
4 cluding sectoral caps, export tariffs, production fees,
5 electricity generation regulations, or greenhouse gas
6 emissions fees, that individually or collectively im-
7 pose an incremental increase on the cost of produc-
8 tion associated with greenhouse gas emissions from
9 a comparable industrial sector that is at least 80
10 percent of the cost of complying with section 722 of
11 the Clean Air Act in the United States for such sec-
12 tor, averaged over a two-year period.

13 “(d) EFFECT OF PRESIDENTIAL DETERMINATION.—
14 If the President makes a determination under subsection
15 (c) with respect to an eligible industrial sector that 85 per-
16 cent or less of United States imports of covered goods with
17 respect to the sector are produced or manufactured in
18 countries that have met one or more of the criteria in sub-
19 section (c), then the President shall, not later than June
20 30, 2018, and every four years thereafter—

21 “(1) assess the extent to which the emission al-
22 lowance rebates provided pursuant to part F of title
23 VII of the Clean Air Act have mitigated or ad-
24 dressed, or could mitigate or address, carbon leakage
25 in that sector;

1 “(2) assess the extent to which an international
2 reserve allowance program has mitigated or ad-
3 dressed, or could mitigate or address, carbon leakage
4 in that sector; and

5 “(3) with respect to that sector—

6 “(A) modify the percentage by which direct
7 and indirect carbon factors will be multiplied
8 under section 764(a)(1)(B) of the Clean Air
9 Act; and

10 “(B) apply or continue to apply an inter-
11 national reserve allowance program under sec-
12 tion 905 with respect to imports of covered
13 goods.

14 “(e) REPORT TO CONGRESS.—Not later than June
15 30, 2018, and every four years thereafter, the President
16 shall transmit to the Congress a report providing notice
17 of any determination made under subsection (c), explain-
18 ing the reasons for such determination, and identifying the
19 actions taken by the President under subsection (d).

20 **“SEC. 905. INTERNATIONAL RESERVE ALLOWANCE PRO-**
21 **GRAM.**

22 “(a) ESTABLISHMENT.—

23 “(1) IN GENERAL.—The Administrator, with
24 the concurrence of Commissioner responsible for

1 U.S. Customs and Border Protection, shall issue
2 regulations—

3 “(A) establishing an international reserve
4 allowance program for the sale, exchange, pur-
5 chase, transfer, and banking of international re-
6 serve allowances for covered goods with respect
7 to the eligible industrial sector;

8 “(B) ensuring that the price for pur-
9 chasing the international reserve allowances
10 from the United States on a particular day is
11 equivalent to the arithmetic mean of the market
12 clearing price for emission allowances under
13 section 722 of the Clean Air Act under the 3
14 leading daily prices indices for the sale of such
15 allowances;

16 “(C) establishing a general methodology
17 for calculating the quantity of international re-
18 serve allowances that a United States importer
19 of any covered good must submit;

20 “(D) requiring the submission of appro-
21 priate amounts of such allowances as a condi-
22 tion of entry into the customs territory of the
23 United States of covered goods with respect to
24 the eligible industrial sector;

1 “(E) exempting from the requirements of
2 subparagraph (D) such products that are the
3 origin of—

4 “(i) any foreign country that the Ad-
5 ministrator has determined to be achieving
6 a percentage change in its nationwide
7 greenhouse gas emissions that is equal to,
8 or better than, the percentage change in
9 nationwide greenhouse gas emissions of the
10 United States, as compared to nationwide
11 emissions levels that each country achieved
12 during calendar year 2005;

13 “(ii) any country determined to meet
14 the standards provided in section
15 904(c)(2);

16 “(iii) any foreign country that the
17 United Nations has identified as among
18 the least developed of developing countries;
19 or

20 “(iv) any foreign country that the
21 President has determined to be responsible
22 for less than 0.5 percent of total global
23 greenhouse gas emissions and less than 5
24 percent of United States imports of cov-

1 ered goods with respect to the eligible in-
2 dustrial sector;

3 “(F) specifying the procedures that U.S.
4 Customs and Border Protection will apply for
5 the declaration and entry of covered goods with
6 respect to the eligible industrial sector into the
7 customs territory of the United States; and

8 “(G) establishing procedures that prevent
9 circumvention of the international reserve allow-
10 ance requirement for covered goods with respect
11 to the eligible industrial sector that are manu-
12 factured or processed in more than one foreign
13 country.

14 “(2) PURPOSE OF PROGRAM.—The Adminis-
15 trator shall establish the program under paragraph
16 (1) consistent with international agreements to
17 which the United States is a party, in a manner that
18 minimizes the likelihood of carbon leakage as a re-
19 sult of differences between—

20 “(A) the direct and indirect costs of com-
21 plying with section 722 of the Clean Air Act;
22 and

23 “(B) the direct and indirect costs, if any,
24 of complying in other countries with greenhouse
25 gas regulatory programs, requirements, export

1 tariffs, or other measures adopted or imposed
2 to reduce greenhouse gas emissions.

3 “(b) EMISSION ALLOWANCE REBATES.—The Admin-
4 istrator shall take into account the value of emission allow-
5 ance rebates distributed under part F of title VII of the
6 Clean Air Act when making calculations under subsection
7 (a)(2).

8 “(c) EFFECTIVE DATE.—

9 “(1) IN GENERAL.—Except as provided in para-
10 graph (2), the international reserve allowance pro-
11 gram may not apply to imports of covered goods en-
12 tering the customs territory of the United States be-
13 fore January 1, 2020.

14 “(2) EXCEPTIONS.—The international reserve
15 allowance program—

16 “(A) may apply to imports of covered
17 goods entering the customs territory of the
18 United States before January 1, 2020, if—

19 “(i) the program is established pursu-
20 ant to the implementation of a multilateral
21 environmental agreement consistent with
22 the negotiating objectives set forth in sec-
23 tion 903; or

24 “(ii)(I) a multilateral environmental
25 agreement consistent with the negotiating

1 objectives set forth in section 903 has not
2 entered into force with respect to the
3 United States; and

4 “(II) the President determines, pursu-
5 ant to section 904(a)(1), that notwith-
6 standing the emission allowance rebates
7 distributed under part F of title VII of the
8 Clean Air Act, the per unit cost of produc-
9 tion for an eligible industrial sector has in-
10 creased by more than 2 percent as a result
11 of compliance with section 722 of the
12 Clean Air Act, in which case the program
13 shall be limited to imports of covered goods
14 with respect to the eligible industrial sec-
15 tor; and

16 “(B) shall apply to imports of covered
17 goods entering the customs territory of the
18 United States before January 1, 2020, if—

19 “(i) a multilateral agreement con-
20 sistent with the negotiating objectives set
21 forth in section 903 has not entered into
22 force with respect to the United States;
23 and

24 “(ii) the President determines, pursu-
25 ant to section 904(a)(1), that notwith-

1 standing the emission allowance rebates
2 distributed under part F of title VII of the
3 Clean Air Act, the per unit cost of produc-
4 tion for an eligible industrial sector has in-
5 creased by more than 7 percent as a result
6 of compliance with section 722 of the
7 Clean Air Act, in which case the program
8 shall be limited to entries of covered goods
9 with respect to the eligible industrial sector
10 and shall apply to entries of such covered
11 goods that are made on or after the date
12 that is 12 months after the date of the
13 President’s determination.

14 “(3) NATIONAL INTEREST EXCEPTION.—

15 “(A) IN GENERAL.—If the President deter-
16 mines that implementation of the international
17 reserve allowance program under paragraph
18 (2)(B) with respect to an eligible industrial sec-
19 tor is not in the national interest of the United
20 States, the President may determine not to im-
21 plement the program with respect to that sec-
22 tor, but—

23 “(i) only in an extraordinary case; and

24 “(ii) only if the President determines
25 that implementing the program would

1 cause serious harm to the economic inter-
2 ests, environmental interests, or national
3 security of the United States.

4 “(B) NOTIFICATION TO CONGRESS.—Any
5 such Presidential determination shall be sub-
6 mitted to the Committee on Finance of the Sen-
7 ate and the Committee on Ways and Means of
8 the House of Representatives and shall be pub-
9 lished in the Federal Register not later than 15
10 days after the date of the determination. In the
11 submission to the committees and in publication
12 in the Federal Register, the President shall in-
13 clude the reasons for the determination not to
14 implement the international reserve allowance
15 program with respect to the eligible industrial
16 sector.

17 “(d) COVERED ENTITIES.—International reserve al-
18 lowances may not be used by covered entities to comply
19 with section 722 of the Clean Air Act.

20 **“SEC. 906. IRON AND STEEL SECTOR.**

21 “For purposes of this title, the Administrator shall
22 consider to be in the same eligible industrial sector—

23 “(1) entities using integrated iron and
24 steelmaking technologies (including coke ovens, blast
25 furnaces, and other iron-making technologies); and

1 “(2) entities using electric arc furnace tech-
2 nologies.

3 **“SEC. 907. DEFINITIONS.**

4 “In this title:

5 “(1) ADMINISTRATOR.—The term ‘Adminis-
6 trator’ means the Administrator of the Environ-
7 mental Protection Agency.

8 “(2) CARBON LEAKAGE.—The term ‘carbon
9 leakage’ means any substantial increase (as deter-
10 mined by the Administrator) in greenhouse gas
11 emissions by industrial entities located in other
12 countries if an incremental cost of production in-
13 crease in the United States resulting from the imple-
14 mentation of this title contributes materially to
15 cause such increase.

16 “(3) COVERED GOOD.—The term ‘covered good’
17 means a good that, as identified by the Adminis-
18 trator by regulation, is either—

19 “(A) entered pursuant to a subheading or
20 heading under the Harmonized Tariff Schedule
21 of the United States that corresponds to the
22 NAICS code for an eligible industrial sector, as
23 established in the concordance between NAICS
24 codes and the Harmonized Tariff Schedule of

1 the United States prepared by the United
2 States Census Bureau; or

3 “(B) a manufactured item for consump-
4 tion.

5 “(4) ELIGIBLE INDUSTRIAL SECTOR.—The
6 term ‘eligible industrial sector’ means an industrial
7 sector determined by the Administrator under sec-
8 tion 764(b) of the Clean Air Act to be eligible to re-
9 ceive emission allowance rebates under part F of
10 title VII of the Clean Air Act.

11 “(5) INDUSTRIAL SECTOR.—The term ‘indus-
12 trial sector’ means any sector that is in the manu-
13 facturing sector (as defined in NAICS codes 31, 32,
14 and 33).

15 “(6) MANUFACTURED ITEM FOR CONSUMP-
16 TION.—The term ‘manufactured item for consump-
17 tion’ means any good—

18 “(A) that includes in substantial amounts
19 one or more goods like the goods produced by
20 an eligible industrial sector; and

21 “(B) for which the Administrator deter-
22 mines that the application of the international
23 reserve allowance program pursuant to this title
24 is technically and administratively feasible and
25 appropriate to achieve the purposes of this title.

1 “(7) NAICS.—The term ‘NAICS’ means the
2 North American Industrial Classification System of
3 2002.”.

