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## H.R.2454

### American Clean Energy and Security Act of 2009 (Placed on Calendar in Senate)

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#### SEC. 183. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATION- The term `Administration' means the Clean Energy Deployment Administration established by section 186.

(2) ADVISORY COUNCIL- The term `Advisory Council' means the Energy Technology Advisory Council of the Administration.

(3) BREAKTHROUGH TECHNOLOGY- The term `breakthrough technology' means a clean energy technology that--

(A) presents a significant opportunity to advance the goals developed under section 185, as assessed under the methodology established by the Advisory Council; but

(B) has generally not been considered a commercially ready technology as a result of high perceived technology risk or other similar factors.

(4) CLEAN ENERGY TECHNOLOGY- The term `clean energy technology' means a technology related to the production, use, transmission, storage, control, or conservation of energy--

(A) that will contribute to a stabilization of atmospheric greenhouse gas concentrations thorough reduction, avoidance, or sequestration of energy-related emissions and--

(i) reduce the need for additional energy supplies by using existing energy supplies with greater efficiency or by transmitting, distributing, or transporting energy with greater effectiveness through the infrastructure of the United States; or

(ii) diversify the sources of energy supply of the United States to strengthen energy security and to increase supplies with a

favorable balance of environmental effects if the entire technology system is considered; and

(B) for which, as determined by the Administrator, insufficient commercial lending is available at affordable rates to allow for widespread deployment.

(5) COST- The term `cost' has the meaning given the term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(6) DIRECT LOAN- The term `direct loan' has the meaning given the term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(7) FUND- The term `Fund' means the Clean Energy Investment Fund established by section 184(a).

(8) GREEN BONDS- The term `Green Bonds' means bonds issued pursuant to section 184.

(8) LOAN GUARANTEE- The term `loan guarantee' has the meaning given the term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(9) NATIONAL LABORATORY- The term `National Laboratory' has the meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).

(10) SECRETARY- The term `Secretary' means the Secretary of Energy.

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

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(12) TECHNOLOGY RISK- The term `technology risk' means the risks during construction or operation associated with the design, development, and deployment of clean energy technologies (including the cost, schedule, performance, reliability and maintenance, and accounting for the perceived risk), from the perspective of commercial lenders, that may be increased as a result of the absence of adequate historical construction, operating, or performance data from commercial applications of the technology.

## **SEC. 184. CLEAN ENERGY INVESTMENT FUND.**

(a) Establishment- There is established in the Treasury of the United States a revolving fund, to be known as the `Clean Energy Investment Fund', consisting of--

(1) such amounts as are deposited in the Fund under this subtitle; and

(2) such sums as may be appropriated to supplement the Fund.

(b) Authorization of Appropriations- There are authorized to be appropriated to the Fund such sums as are necessary to carry out this subtitle.

(c) Expenditures From Fund-

(1) IN GENERAL- Amounts in the Fund shall be available to the Administrator of the Administration for obligation without fiscal year limitation, to remain available until expended.

(2) ADMINISTRATIVE EXPENSES-

(A) FEES- Fees collected for administrative expenses shall be available without limitation to cover applicable expenses.

(B) FUND- To the extent that administrative expenses are not reimbursed through fees, an amount not to exceed 1.5 percent of the amounts in the Fund as of the beginning of each fiscal year shall be available to pay the administrative expenses for the fiscal year necessary to carry out this subtitle.

(d) Transfers of Amounts-

(1) IN GENERAL- The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS- Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(3) CASH FLOWS- Cash flows associated with costs of the Fund described in section 502(5)(B) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)(B)) shall be transferred to appropriate credit accounts.

(e) Green Bonds-

(1) INITIAL CAPITALIZATION- The Secretary of the Treasury shall issue Green Bonds in the amount of \$7,500,000,000 on the credit of the United States to acquire capital stock of the Administration. Stock certificates evidencing ownership in the Administration shall be issued by the Administration to the Secretary of the Treasury, to the extent of payments made for the capital stock of the Administration.

(2) DENOMINATIONS AND MATURITY- Green Bonds shall be in such forms and denominations, and shall mature within such periods, as determined by the Secretary of the Treasury.

(3) INTEREST- Green Bonds shall bear interest at a rate not less than the current average yield on outstanding market obligations of the United States of comparable maturity during the month preceding the issuance of the obligation as determined by the Secretary of the Treasury.

(4) **LAWFUL INVESTMENTS**- Green Bonds shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof.

## **SEC. 185. ENERGY TECHNOLOGY DEPLOYMENT GOALS.**

(a) **Goals**- Not later than 1 year after the date of enactment of this Act, the Secretary, after consultation with the Advisory Council, shall develop and publish for review and comment in the Federal Register recommended near-, medium-, and long-term goals (including numerical performance targets at appropriate intervals to measure progress toward those goals) for the deployment of clean energy technologies through the credit support programs established by section 187 to promote--

(1) sufficient electric generating capacity using clean energy technologies to meet the energy needs of the United States;

(2) clean energy technologies in vehicles and fuels that will substantially reduce the reliance of the United States on foreign sources of energy and insulate consumers from the volatility of world energy markets;

(3) a domestic commercialization and manufacturing capacity that will establish the United States as a world leader in clean energy technologies across multiple sectors;

(4) installation of sufficient infrastructure to allow for the cost-effective deployment of clean energy technologies appropriate to each region of the United States;

(5) the transformation of the building stock of the United States to zero net energy consumption;

(6) the recovery, use, and prevention of waste energy;

(7) domestic manufacturing of clean energy technologies on a scale that is sufficient to achieve price parity with conventional energy sources;

(8) domestic production of commodities and materials (such as steel, chemicals, polymers, and cement) using clean energy technologies so that the United States will become a world leader in environmentally sustainable production of the commodities and materials;

(9) a robust, efficient, and interactive electricity transmission grid that will allow for the incorporation of clean energy technologies, distributed generation, and demand-response in each regional electric grid;

(10) sufficient availability of financial products to allow owners and users of residential, retail, commercial, and industrial buildings to make energy efficiency and distributed generation technology investments with reasonable payback periods;

(11) sufficient availability of financial services and support to small businesses developing and deploying clean energy technologies through partnerships with private entities that have relevant credit expertise; and

(12) such other goals as the Secretary, in consultation with the Advisory Council, determines to be consistent with the purpose stated in section 182.

(b) Revisions- The Secretary shall revise the goals established under subsection (a), from time to time as appropriate, to account for advances in technology and changes in energy policy.

## **SEC. 186. CLEAN ENERGY DEPLOYMENT ADMINISTRATION.**

(a) Establishment-

(1) ESTABLISHMENT OF CORPORATION- There is established a corporation to be known as the Clean Energy Deployment Administration that shall be wholly owned by the United States.

(2) INDEPENDENT CORPORATION- The Administration shall be an independent corporation. Neither the Administration nor any of its functions, powers, or duties shall be transferred to or consolidated with any other department, agency, or corporation of the Government unless the Congress provides otherwise.

(3) CHARTER- The Administration shall be chartered for 20 years from the date of enactment of this section.

(4) STATUS-

(A) INSPECTOR GENERAL- Section 12 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended--

(i) in paragraph (1), by inserting `the Administrator of the Clean Energy Deployment Administration;' after `Export-Import Bank;'; and

(ii) in paragraph (2), by inserting `the Clean Energy Deployment Administration,' after `Export-Import Bank,'.

(3) OFFICES-

(A) PRINCIPAL OFFICE- The Administration shall--

(i) maintain the principal office of the Administration in the national capital region; and

(ii) for purposes of venue in civil actions, be considered to be a resident of the District of Columbia.

(B) OTHER OFFICES- The Administration may establish other offices in such other places as the Administration considers necessary or appropriate for the conduct of the business of the Administration.

(b) Administrator-

(1) IN GENERAL- The Administrator of the Administration shall be--

(A) appointed by the President, with the advice and consent of the Senate, for a 5-year term; and

(B) compensated at the prevailing rate for compensation for similar positions in industry.

(2) DUTIES- The Administrator of the Administration shall--

(A) serve as the Chief Executive Officer of the Administration and Chairman of the Board;

(B) ensure that--

(i) the Administration operates in a safe and sound manner, including maintenance of adequate capital and internal controls (consistent with section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262));

(ii) the operations and activities of the Administration foster liquid, efficient, competitive, and resilient energy and energy efficiency finance markets;

(iii) the Administration carries out the purpose stated in section 182 only through activities that are authorized under and consistent with sections 182 through 189; and

(iv) the activities of the Administration and the manner in which the Administration is operated are consistent with the public interest;

(C) develop policies and procedures for the Administration that will--

(i) promote a self-sustaining portfolio of investments that will maximize the value of investments to effectively promote clean energy technologies;

(ii) promote transparency and openness in Administration operations;

(iii) afford the Administration with sufficient flexibility to meet the purpose stated in section 182; and

(iv) provide for the efficient processing of applications; and

(D) with the concurrence of the Board, set expected loss reserves for the support provided by the Administration consistent with section 187 (c).

(c) Board of Directors-

- (1) IN GENERAL- The Board of Directors of the Administration shall consist of-
- (A) the Secretary or the designee of the Secretary, who shall serve as an ex-officio member of the Board of Directors;
  - (B) the Secretary of the Treasury or the designee of the Secretary, who shall serve as an ex-officio member of the Board of Directors;
  - (C) the Secretary of the Interior or the designee of the Secretary, who shall serve as an ex-officio member of the Board of Directors;
  - (D) the Secretary of Agriculture or the designee of the Secretary, who shall serve as an ex officio member of the Board of Directors;
  - (E) the Administrator of the Administration, who shall serve as the Chairman of the Board of Directors; and
  - (F) 4 additional members who shall--
    - (i) be appointed by the President, with the advice and consent of the Senate, for staggered 5-year terms; and
    - (ii) have experience in banking, financial services, technology assessment, energy regulation, or risk management, including individuals with substantial experience in the development of energy projects, the electricity generation sector, the transportation sector, the manufacturing sector, and the energy efficiency sector.
- (2) DUTIES- The Board of Directors shall--
- (A) oversee the operations of the Administration and ensure industry best practices are followed in all financial transactions involving the Administration;
  - (B) consult with the Administrator of the Administration on the general policies and procedures of the Administration to ensure the interests of the taxpayers are protected;
  - (C) ensure the portfolio of investments are consistent with purpose stated in section 182 and with the long-term financial stability of the Administration;
  - (D) ensure that the operations and activities of the Administration are consistent with the development of a robust private sector that can provide commercial loans or financing products; and
  - (E) not serve on a full-time basis, except that the Board of Directors shall meet at least quarterly to review, as appropriate, applications for credit support and set policies and procedures as necessary.
- (3) REMOVAL- An appointed member of the Board of Directors may be removed from office by the President for good cause.

(4) VACANCIES- An appointed seat on the Board of Directors that becomes vacant shall be filled by appointment by the President, but only for the unexpired portion of the term of the vacating member.

(5) COMPENSATION OF MEMBERS- An appointed member of the Board of Directors shall be compensated at the prevailing rate for compensation for similar positions in industry.

(d) Energy Technology Advisory Council-

(1) IN GENERAL- The Administration shall have an Energy Technology Advisory Council consisting of 8 members selected by the Board of Directors of the Administration.

(2) QUALIFICATIONS- The members of the Advisory Council shall--

(A) have clean energy project development, clean energy finance, commercial, and/or relevant scientific expertise; and

(B) include representatives of--

(i) the academic community;

(ii) the private research community;

(iii) National Laboratories;

(iv) the technology or project development community; and

(v) the commercial energy financing and operations sector.

(3) DUTIES- The Advisory Council shall--

(A) develop and publish for comment in the Federal Register a methodology for assessment of clean energy technologies that will allow the Administration to evaluate projects based on the progress likely to be achieved per-dollar invested in maximizing the attributes of the definition of clean energy technology, taking into account the extent to which support for a clean energy technology is likely to accrue subsequent benefits that are attributable to a commercial scale deployment taking place earlier than that which otherwise would have occurred without the support; and

(B) advise on the technological approaches that should be supported by the Administration to meet the technology deployment goals established by the Secretary pursuant to section 185.

(4) TERM-

(A) IN GENERAL- Members of the Advisory Council shall have 5-year staggered terms, as determined by the Administrator of the Administration.

(B) REAPPOINTMENT- A member of the Advisory Council may be reappointed.

(5) COMPENSATION- A member of the Advisory Council, who is not otherwise compensated as a Federal employee, shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Advisory Council.

(e) Staff-

(1) IN GENERAL- The Administrator of the Administration, in consultation with the Board of Directors, may--

(A) appoint and terminate such officers, attorneys, employees, and agents as are necessary to carry out this subtitle; and

(B) vest those personnel with such powers and duties as the Administrator of the Administration may determine.

(f) Conflicts of Interest- No director, officer, attorney, agent, or employee of the Administration shall in any manner, directly or indirectly, participate in the deliberation upon, or the determination of, any question affecting such individual's personal interests, or the interests of any corporation, partnership, or association in which such individual is directly or indirectly personally interested.

(g) Sunset-

(1) EXPIRATION OF CHARTER- The Administration shall continue to exercise its functions until all obligations and commitments of the Administration are discharged, even after its charter has expired.

(2) PRIOR OBLIGATIONS- No provisions of this subsection shall be construed as preventing the Administration from--

(A) undertaking obligations prior to the date of the expiration of its charter which mature subsequent to such date;

(B) assuming, prior to the date of the expiration of its charter, liability as guarantor, endorser, or acceptor of obligations which mature subsequent to such date; or

(C) continuing as a corporation and exercising any of its functions subsequent to the date of the expiration of its charter for purposes of orderly liquidation, including the administration of its assets and the collection of any obligations held by the Administration.

## **SEC. 187. DIRECT SUPPORT.**

(a) In General- The Administration may issue direct loans, letters of credit, and loan guarantees to deploy clean energy technologies if the Administrator of the Administration has determined that deployment of the technologies would benefit or be accelerated by the support.

(b) Eligibility Criteria- In carrying out this section and awarding credit support to projects, the Administrator of the Administration shall account for--

- (1) how the technology rates based on an evaluation methodology established by the Advisory Council;
- (2) how the project fits with the goals established under section 185; and
- (3) the potential for the applicant to successfully complete the project.

(c) Risk-

(1) EXPECTED LOAN LOSS RESERVE- The Administrator of the Administration shall establish an expected loan loss reserve to account for estimated losses attributable to activities under this section that is consistent with the purposes of--

(A) developing breakthrough technologies to the point at which technology risk is largely mitigated;

(B) achieving widespread deployment and advancing the commercial viability of clean energy technologies; and

(C) advancing the goals established under section 185.

(2) INITIAL EXPECTED LOAN LOSS RESERVE- Until such time as the Administrator of the Administration determines sufficient data exist to establish an expected loan loss reserve that is appropriate, the Administrator of the Administration shall consider establishing an initial rate of 10 percent for the portfolio of investments under this subtitle.

(3) PORTFOLIO INVESTMENT APPROACH- The Administration shall--

(A) use a portfolio investment approach to mitigate risk and diversify investments across technologies and ensure that no particular technology is provided more than 30 percent of the financial support available;

(B) to the maximum extent practicable and consistent with long-term self-sufficiency, weigh the portfolio of investments in projects to advance the goals established under section 185;

(C) consistent with the expected loan loss reserve established under this subsection, the purpose stated in section 182, and section 186(b)(2)(B), provide the maximum practicable percentage of support to promote breakthrough technologies; and

(D) give the highest priority to investments that promote technologies that will achieve the maximum greenhouse gas emission reductions within a reasonable period of time per dollar invested and the earliest reductions in greenhouse gas emissions.

(4) LOSS RATE REVIEW-

(A) IN GENERAL- The Board of Directors shall review on an annual basis the loss rates of the portfolio to determine the adequacy of the reserves.

(B) REPORT- Not later than 90 days after the date of the initiation of the review, the Administrator of the Administration shall submit to the Committee on Energy and Natural Resources and the Committee on Finance of the Senate, and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives a report describing the results of the review and any recommended policy changes.

(5) FEDERAL COST SHARE- Direct loans, letters of credit and loan guarantees by the Administration shall not exceed an amount equal to 80 percent of the project cost of the facility that is the subject of the loan, letter of credit or loan guarantee, as estimated at the time at which the loan, letter of credit or loan guarantee is issued.

(d) Application Review-

(1) IN GENERAL- To the maximum extent practicable and consistent with sound business practices, the Administration shall seek to consolidate reviews of applications for credit support under this subtitle such that final decisions on applications can generally be issued not later than 180 days after the date of submission of a completed application.

(2) ENVIRONMENTAL REVIEW- In carrying out this subtitle, the Administration shall, to the maximum extent practicable--

(A) avoid duplicating efforts that have already been undertaken by other agencies (including State agencies acting under Federal programs); and

(B) with the advice of the Council on Environmental Quality and any other applicable agencies, use the administrative records of similar reviews conducted throughout the executive branch to develop the most expeditious review process practicable.

(e) Wage Rate Requirements-

(1) IN GENERAL- No credit support shall be issued under this section unless the borrower has provided to the Administrator of the Administration reasonable assurances that all laborers and mechanics employed by contractors and subcontractors in the performance of construction work financed in whole or in part by the Administration will be paid wages at rates not less than those prevailing on projects of a character similar to the contract work in the civil subdivision of the State in which the contract work is to be performed as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of part A of subtitle II of title 40, United States Code.

(2) LABOR STANDARDS- With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

(f) Limitations- (1) The Administration shall not provide direct support as defined under this section or indirect support as defined under section 188 to an individual

clean energy technology project that obtained a loan guarantee under title XVII of the Energy Policy Act of 2005.

(2) No direct or indirect support provided by the Administration may be used to pay any part of the cost of an obligation or a loan guarantee under title XVII of the Energy Policy Act of 2005.

## **SEC. 188. INDIRECT SUPPORT.**

(a) In General- For the purpose of enhancing the availability of private financing for clean energy technology deployment, the Administration may--

(1) provide credit support to portfolios of taxable debt obligations originated by state, local, and private sector entities that enable owners and users of buildings and industrial facilities to--

(A) significantly increase the energy efficiency of such buildings or facilities; or

(B) install systems that individually generate electricity from renewable energy resources and have a capacity of no more than 2 megawatts;

(2) facilitate financing transactions in tax equity markets and long-term purchasing of clean energy by state, local, and non-governmental not-for-profit entities, to the degree and extent that the Administration determines such financing activity is appropriate and consistent with carrying out the purposes described in Section 182 of this Act; and

(3) provide credit support to portfolios of taxable debt obligations originated by state, local, and private sector entities that enable the deployment of energy storage applications for electric drive vehicles, stationary applications, and electricity transmission and distribution.

(b) Definitions- For purposes of the section:

(1) CREDIT SUPPORT- The term `credit support' means--

(A) direct loans, letters of credit, loan guarantees, and insurance products; and

(B) the purchase or commitment to purchase, or the sale or commitment to sell, debt instruments (including subordinated securities).

(2) RENEWABLE ENERGY RESOURCE- The term `renewable energy resource' shall have the meaning given that term in section 610 of the Public Utility Regulatory Policies Act of 1978 (as added by section 101 of this Act).

(c) Transparency- The Administration shall seek to foster through its credit support activities--

(1) the development and consistent application of standard contractual terms, transparent underwriting standards and consistent measurement and verification protocols, as applicable; and

(2) the creation of performance data that promotes effective underwriting and risk management to support lending markets and stimulate the development of private investment markets.

(d) Exempt Securities- All securities insured or guaranteed by the Administration shall, to the same extent as securities that are direct obligations of or obligations guaranteed as to the principal or interest by the United States, be considered to be exempt securities within the meaning of the laws administered by the Securities and Exchange Commission.

## **SEC. 189. FEDERAL CREDIT AUTHORITY.**

(a) Payments of Liabilities-

(1) IN GENERAL- Any payment made to discharge liabilities arising from agreements under this subtitle shall be paid exclusively out of the Fund or the associated credit account, as appropriate.

(2) SECURITY- Subject to paragraph (1), the full faith and credit of the United States is pledged to the payment of all obligations entered into by the Administration pursuant to this subtitle.

(b) Fees-

(1) IN GENERAL- Consistent with achieving the purpose stated in section 182, the Administrator of the Administration shall charge fees or collect compensation generally in accordance with commercial rates.

(2) AVAILABILITY OF FEES- All fees collected by the Administration may be retained by the Administration and placed in the Fund and may remain available to the Administration, without further appropriation or fiscal year limitation, for use in carrying out the purpose stated in section 182.

(3) BREAKTHROUGH TECHNOLOGIES- The Administration shall charge the minimum amount in fees or compensation practicable for breakthrough technologies, consistent with the long-term viability of the Administration, unless the Administration first determines that a higher charge will not impede the development of the technology.

(4) ALTERNATIVE FEE ARRANGEMENTS- The Administration may use such alternative arrangements (such as profit participation, contingent fees, and other valuable contingent interests) as the Administration considers appropriate to compensate the Administration for the expenses of the Administration and the risk inherent in the support of the Administration.

(c) Cost Transfer Authority- Amounts collected by the Administration for the cost of a loan or loan guarantee shall be transferred by the Administration to the respective credit accounts.

## **SEC. 190. GENERAL PROVISIONS.**

(a) Immunity From Impairment, Limitation, or Restriction-

(1) IN GENERAL- All rights and remedies of the Administration (including any rights and remedies of the Administration on, under, or with respect to any mortgage or any obligation secured by a mortgage) shall be immune from impairment, limitation, or restriction by or under--

(A) any law (other than a law enacted by Congress expressly in limitation of this paragraph) that becomes effective after the acquisition by the Administration of the subject or property on, under, or with respect to which the right or remedy arises or exists or would so arise or exist in the absence of the law; or

(B) any administrative or other action that becomes effective after the acquisition.

(2) STATE LAW- The Administrator of the Administration may conduct the business of the Administration without regard to any qualification or law of any State relating to incorporation.

(b) Use of Other Agencies- With the consent of a department, establishment, or instrumentality (including any field office), the Administration may--

(1) use and act through any department, establishment, or instrumentality; and

(2) use, and pay compensation for, information, services, facilities, and personnel of the department, establishment, or instrumentality.

(c) Financial Matters-

(1) INVESTMENTS- Funds of the Administration may be invested in such investments as the Board of Directors may prescribe. Earnings from such funds, other than fees collected under section 189, may be spent by the Administration only to such extent or in such amounts as are provided in advance by appropriation Acts.

(2) FISCAL AGENTS- Any Federal Reserve bank or any bank as to which at the time of the designation of the bank by the Administrator of the Administration there is outstanding a designation by the Secretary of the Treasury as a general or other depository of public money, may be designated by the Administrator of the Administration as a depository or custodian or as a fiscal or other agent of the Administration.

(d) Periodic Reports- Not later than 1 year after commencement of operation of the Administration and at least biannually thereafter, the Administrator of the Administration shall submit to the Committee on Energy and Natural Resources and the Committee on Finance of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives a report that includes a description of--

(1) the technologies supported by activities of the Administration and how the activities advance the purpose stated in section 182; and

(2) the performance of the Administration on meeting the goals established under section 185.

(g) Audits by the Comptroller General-

(1) IN GENERAL- The programs, activities, receipts, expenditures, and financial transactions of the Administration shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General.

(2) ACCESS- The representatives of the Government Accountability Office shall--

(A) have access to the personnel and to all books, accounts, documents, records (including electronic records), reports, files, and all other papers, automated data, things, or property belonging to, under the control of, or in use by the Administration, or any agent, representative, attorney, advisor, or consultant retained by the Administration, and necessary to facilitate the audit;

(B) be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians;

(C) be authorized to obtain and duplicate any such books, accounts, documents, records, working papers, automated data and files, or other information relevant to the audit without cost to the Comptroller General; and

(D) have the right of access of the Comptroller General to such information pursuant to section 716(c) of title 31, United States Code.

(3) ASSISTANCE AND COST-

(A) IN GENERAL- For the purpose of conducting an audit under this subsection, the Comptroller General may, in the discretion of the Comptroller General, employ by contract, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), professional services of firms and organizations of certified public accountants for temporary periods or for special purposes.

(B) REIMBURSEMENT-

(i) IN GENERAL- On the request of the Comptroller General, the Administration shall reimburse the Government Accountability Office for the full cost of any audit conducted by the Comptroller General under this subsection.

(ii) CREDITING- Such reimbursements shall--

(I) be credited to the appropriation account entitled 'Salaries and Expenses, Government Accountability Office' at the time at which the payment is received; and

(II) remain available until expended.

(h) Annual Independent Audits-

(1) IN GENERAL- The Administrator of the Administration shall--

(A) have an annual independent audit made of the financial statements of the Administration by an independent public accountant in accordance with generally accepted auditing standards; and

(B) submit to the Secretary and to the Committee on Energy and Natural Resources and the Committee on Finance of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House the results of the audit.

(2) CONTENT- In conducting an audit under this subsection, the independent public accountant shall determine and report on whether the financial statements of the Administration--

(A) are presented fairly in accordance with generally accepted accounting principles; and

(B) comply with any disclosure requirements imposed under this subtitle.

(i) Financial Reports-

(1) IN GENERAL- The Administrator of the Administration shall submit to the Secretary and to the Committee on Energy and Natural Resources and the Committee on Finance of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House annual and quarterly reports of the financial condition and operations of the Administration, which shall be in such form, contain such information, and be submitted on such dates as the Secretary shall require.

(2) CONTENTS OF ANNUAL REPORTS- Each annual report shall include--

(A) financial statements prepared in accordance with generally accepted accounting principles;

(B) any supplemental information or alternative presentation that the Secretary may require; and

(C) an assessment (as of the end of the most recent fiscal year of the Administration), signed by the chief executive officer and chief accounting or financial officer of the Administration, of--

(i) the effectiveness of the internal control structure and procedures of the Administration; and

(ii) the compliance of the Administration with applicable safety and soundness laws.

(3) SPECIAL REPORTS- The Secretary may require the Administrator of the Administration to submit other reports on the condition (including financial condition), management, activities, or operations of the Administration, as the Secretary considers appropriate.

(4) ACCURACY- Each report of financial condition shall contain a declaration by the Administrator of the Administration or any other officer designated by the Board of Directors of the Administration to make the declaration, that the report is true and correct to the best of the knowledge and belief of the officer.

(5) AVAILABILITY OF REPORTS- Reports required under this section shall be published and made publicly available as soon as is practicable after receipt by the Secretary.

(j) Spending Safeguards and Reporting-

(1) IN GENERAL- The Administrator--

(A) shall require any entity receiving financing support from the Administration to report quarterly, in a format specified by the Administrator, on such entity's use of such support and its progress fulfilling the objectives for which such support was granted, and the Administrator shall make these reports available to the public;

(B) may establish additional reporting and information requirements for any recipient of financing support from the Administration;

(C) shall establish appropriate mechanisms to ensure appropriate use and compliance with all terms of any financing support from the Administration;

(D) shall create and maintain a fully searchable database, accessible on the Internet (or successor protocol) at no cost to the public, that contains at least--

(i) a list of each entity that has applied for financing support;

(ii) a description of each application;

(iii) the status of each such application;

(iv) the name of each entity receiving financing support;

(v) the purpose for which such entity is receiving such financing support;

(vi) each quarterly report submitted by the entity pursuant to this section; and

(vii) such other information sufficient to allow the public to understand and monitor the financial support provided by the Administration;

(E) shall make all financing transactions available for public inspection, including formal annual reviews by both a private auditor and the Comptroller General; and

(F) shall at all times be available to receive public comment in writing on the activities of the Administration.

(2) PROTECTION OF CONFIDENTIAL BUSINESS INFORMATION- To the extent necessary and appropriate, the Administrator may redact any information regarding applicants and borrowers to protect confidential business information.

## **SEC. 191. CONFORMING AMENDMENTS.**

(a) Tax Exempt Status- Subsection (l) of section 501 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(4) The Clean Energy Deployment Administration established under section 186 of the American Clean Energy and Security Act of 2009.”

(b) Wholly Owned Government Corporation- Paragraph (3) of section 9101 of title 31, United States Code, is amended by adding at the end the following:

“(S) the Clean Energy Deployment Administration.”

### **Subtitle J--Miscellaneous**

## **SEC. 195. INCREASED HYDROELECTRIC GENERATION AT EXISTING FEDERAL FACILITIES.**

(a) In General- The Secretary of the Interior, the Secretary of Energy, and the Secretary of the Army shall jointly update the study of the potential for increasing electric power production capability at federally owned or operated water regulation, storage, and conveyance facilities required in section 1834 of the Energy Policy Act of 2005.

(b) Content- The update under this section shall include identification and description in detail of each facility that is capable, with or without modification, of producing additional hydroelectric power, including estimation of the existing potential for the facility to generate hydroelectric power.

(c) Report- The Secretaries shall submit to the Committees on Energy and Commerce, Natural Resources, and Transportation and Infrastructure of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the update of the study under this section by not later than 12 months after the date of enactment of this Act. The report shall include each of the following:

(1) The identifications, descriptions, and estimations referred to in subsection (b).

(2) A description of activities currently conducted or considered, or that could be considered, to produce additional hydroelectric power from each identified facility.

(3) A summary of prior actions taken by the Secretaries to produce additional hydroelectric power from each identified facility.

(4) The costs to install, upgrade, or modify equipment or take other actions to produce additional hydroelectric power from each identified facility, and the level of Federal power customer involvement in the determination of such costs.

(5) The benefits that would be achieved by such installation, upgrade, modification, or other action, including quantified estimates of any additional energy or capacity from each facility identified under subsection (b).

(6) A description of actions that are planned, underway, or might reasonably be considered to increase hydroelectric power production by replacing turbine runners, by performing generator upgrades or rewinds, or by construction of pumped storage facilities.

(7) The impact of increased hydroelectric power production on irrigation, water supply, fish, wildlife, Indian tribes, river health, water quality, navigation, recreation, fishing, and flood control.

(8) Any additional recommendations to increase hydroelectric power production from, and reduce costs and improve efficiency at, federally owned or operated water regulation, storage, and conveyance facilities.

## **SEC. 196. CLEAN TECHNOLOGY BUSINESS COMPETITION GRANT PROGRAM.**

(a) In General- The Secretary of Energy is authorized to provide grants to organizations to conduct business competitions that provide incentives, training, and mentorship to entrepreneurs, including minority-owned and woman-owned, and early stage start-up companies throughout the United States to meet high priority economic, environmental, and energy security goals in areas to include energy efficiency, renewable energy, air quality, water quality and conservation, transportation, smart grid, green building, and waste management. Such competitions shall have the purpose of accelerating the development and deployment of clean technology businesses and green jobs; stimulating green economic development; providing business training and mentoring to early stage clean technology companies; and strengthening the competitiveness of United States clean technology industry in world trade markets. Priority shall be given to business competitions that are private sector led, encourage regional and interregional cooperation, and can demonstrate market-driven practices and show the creation of cost-effective green jobs through an annual publication of competition activities and directory of companies.

(b) Eligibility- An organization eligible for a grant under subsection (a) is--

(1) any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; and

(2) any sponsored entity of an organization described in paragraph (1) that is operated as a nonprofit entity.

(c) Priority- In making grants under this section, the Secretary shall give priority to those organizations that can demonstrate broad funding support from private and other non-Federal funding sources to leverage Federal investment.

(d) Authorization of Appropriations- For the purpose of carrying out this section, there are authorized to be appropriated \$20,000,000.

## **SEC. 197. NATIONAL BIOENERGY PARTNERSHIP.**

(a) In General- The Secretary of Energy shall establish a National Bioenergy Partnership to provide coordination among programs of State governments, the Federal Government, and the private sector that support the institutional and physical infrastructure necessary to promote the deployment of sustainable biomass fuels and bioenergy technologies for the United States.

(b) Program- The National Bioenergy Partnership shall consist of five regions, to be administered by the CONEG Policy Research Center, the Council of Great Lakes Governors, the Southern States Energy Board, the Western Governors Association, and the Pacific Regional Biomass Energy Partnership led by the Washington State University Energy Program.

(c) Authorization of Appropriations- There are authorized to be appropriated for each of fiscal years 2010 through 2014 to carry out this section--

(1) \$5,000,000, to be allocated among the 5 regions described in subsection (b) on the basis of the number of States in each region, for distribution among the member States of that region based on procedures developed by the member States of the region; and

(2) \$2,500,000, to be allocated equally among the 5 regions described in subsection (b) for region-wide activities, including technical assistance and regional studies and coordination.

## **SEC. 198. OFFICE OF CONSUMER ADVOCACY.**

Section 319 of the Federal Power Act is amended to read as follows:

### **SEC. 319. OFFICE OF CONSUMER ADVOCACY.**

(a) Office-

(1) ESTABLISHMENT- There is established within the Commission an Office of Consumer Advocacy to serve as an advocate for the public interest. The Office of Administrative Litigation within the Commission shall be incorporated into the Office of Consumer Advocacy.

(2) DIRECTOR- The Office shall be headed by a Director to be appointed by the President by and with the advice and consent of the Senate from among individuals who are licensed attorneys admitted to the Bar of any State or of the District of Columbia and who have experience in public utility proceedings.

(3) DUTIES- The Office may--

(A) represent the interests of energy customers--

^ (i) on matters before the Commission concerning rates or service of public utilities and natural gas companies under the jurisdiction of the Commission;

^ (ii) as amicus curiae, in the review in the courts of the United States of rulings by the Commission in such matters; and

^ (iii) as amicus, in hearings and proceedings in other Federal regulatory agencies and commissions related to such matters;

^ (B) monitor and review energy customer complaints and grievances on matters concerning rates or service of public utilities and natural gas companies under the jurisdiction of the Commission;

^ (C) investigate independently, or within the context of formal proceedings, the services provided by, the rates charged by, and the valuation of the properties of, public utilities and natural gas companies under the jurisdiction of the Commission;

^ (D) develop means, such as public dissemination of information, consultative services, and technical assistance, to ensure, to the maximum extent practicable, that the interests of energy consumers are adequately represented in the course of any hearing or proceeding described in subparagraph (A);

^ (E) collect data concerning rates or service of public utilities and natural gas companies under the jurisdiction of the Commission; and

^ (F) prepare and issue reports and recommendations.

^ (4) COMPENSATION AND POWERS- The Director shall be compensated at Level IV of the Executive Schedule. The Director may--

^ (A) employ not more than 25 full-time professional employees at appropriate levels in the GS Scale and such additional support personnel as required; and

^ (B) procure temporary and intermittent services as needed.

^ (5) INFORMATION FROM OTHER FEDERAL AGENCIES- The Director may request, from any department, agency, or instrumentality of the United States such information as he deems necessary to carry out his functions under this section. Upon such request, the head of the department, agency, or instrumentality concerned shall, to the extent practicable and authorized by law, provide such information to the Office.

^ (b) Consumer Advocacy Advisory Committee-

^ (1) ESTABLISHMENT- The Director shall establish an advisory committee to be known as Consumer Advocacy Advisory Committee (in this section referred to as the ^ Advisory Committee') to review rates, services, and disputes and to make recommendations to the Director.

` (2) COMPOSITION- The Director shall appoint 5 members to the Advisory Committee including--

` (A) 2 individuals representing State utility consumer advocates; and

` (B) 1 individual, from a nongovernmental organization representing consumers.

` (3) MEETINGS- The Advisory Committee shall meet at such frequency as may be required to carry out its duties.

` (4) REPORTS- The Director shall provide for the publication of recommendations of the Advisory Committee on the public website established for the Office.

` (5) DURATION- Notwithstanding any other provision of law, the Advisory Committee shall continue in operation during the period for which the Office exists.

` (c) Definitions-

` (1) ENERGY CUSTOMER- The term `energy customer' means a residential customer or a small commercial customer that receives products or services directly or indirectly from a public utility or natural gas company under the jurisdiction of the Commission.

` (2) NATURAL GAS COMPANY- The term `natural gas company' has the meaning given the term in section 2 of the Natural Gas Act (15 U.S.C. 717a), as modified by section 601(a) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431(a)).

` (3) OFFICE- The term `Office' means the Office of Consumer Advocacy established under this section.

` (4) PUBLIC UTILITY- The term `public utility' has the meaning given the term in section 201(e) of this Act.

` (5) SMALL COMMERCIAL CUSTOMER- The term `small commercial customer' means a commercial customer that has a peak demand of not more than 1,000 kilowatts per hour.

` (d) Authorization of Appropriations- There are authorized to be appropriated such sums as necessary to carry out this section.

` (e) Savings Clause- Nothing in this section affects the rights or obligations of any State utility consumer advocate.'

## **SEC. 199. DEVELOPMENT CORPORATION FOR RENEWABLE POWER BORROWING AUTHORITY.**

(a) Determination- No later than 6 months after the date of enactment of this Act, the Secretary of Energy, in coordination with the Secretary of Commerce, shall--

(1) determine any geographic area within the contiguous United States that lacks a Federal power marketing agency;

(2) develop a plan or criteria for the geographic areas identified in paragraph (1) regarding investment in renewable energy and associated infrastructure within an area identified in paragraph (1); and

(3) identify any Federal agency within an area in paragraph (1) that has, or could develop, the ability to facilitate the investment in paragraph (2).

(b) Report- The Secretary of Energy, in coordination with the Secretary of Commerce, shall provide the determinations made under subsection (a) to the Committee on Energy and Commerce of the House of Representatives.

(c) Establishment- Based upon the determinations made pursuant to subsection (a), the Secretary of Energy, in coordination with the Secretary of Commerce, shall recommend to the Committee on Energy and Commerce of the House of Representatives the establishment of any new Federal lending authority, including authorization of additional lending authority for existing Federal agencies, not to exceed \$3,500,000,000 per geographic area identified in subsection (a)(1).

(d) Authorization- \$25,000,000 is authorized to be appropriated for fiscal year 2010 to carry out the provisions of this section.

## **SEC. 199A. STUDY.**

Not later than February 1, 2011, the Secretary of Energy shall transmit to the Congress a report showing the results of a study on the use of thorium-fueled nuclear reactors for national energy needs. Such report shall include a response to the International Atomic Energy Agency study entitled 'Thorium fuel cycle - Potential benefits and challenges' (IAEA-TECDOC-1450).

## **TITLE II--ENERGY EFFICIENCY**

### **Subtitle A--Building Energy Efficiency Programs**

## **SEC. 201. GREATER ENERGY EFFICIENCY IN BUILDING CODES.**

Section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) is amended to read as follows:

## **SEC. 304. GREATER ENERGY EFFICIENCY IN BUILDING CODES.**

(a) Energy Efficiency Targets-

(1) IN GENERAL- Except as provided in paragraph (2) or (3), the national building code energy efficiency target for the national average percentage improvement of a building's energy performance when built to a code meeting the target shall be--

^ (A) effective on the date of enactment of the American Clean Energy and Security Act of 2009, 30 percent reduction in energy use relative to a comparable building constructed in compliance with the baseline code;

^ (B) effective January 1, 2014, for residential buildings, and January 1, 2015, for commercial buildings, 50 percent reduction in energy use relative to the baseline code; and

^ (C) effective January 1, 2017, for residential buildings, and January 1, 2018, for commercial buildings, and every 3 years thereafter, respectively, through January 1, 2029, and January 1, 2030, 5 percent additional reduction in energy use relative to the baseline code.

^ (2) CONSENSUS-BASED CODES- If on any effective date specified in paragraph (1)(A), (B), or (C) a successor code to the baseline codes provides for greater reduction in energy use than is required under paragraph (1), the overall percentage reduction in energy use provided by that successor code shall be the national building code energy efficiency target.

^ (3) TARGETS ESTABLISHED BY SECRETARY- The Secretary may by rule establish a national building code energy efficiency target for residential or commercial buildings achieving greater reductions in energy use than the targets prescribed in paragraph (1) or (2) if the Secretary determines that such greater reductions in energy use can be achieved with a code that is life cycle cost-justified and technically feasible. The Secretary may by rule establish a national building code energy efficiency target for residential or commercial buildings achieving a reduction in energy use that is greater than zero but less than the targets prescribed in paragraph (1) or (2) if the Secretary determines that such lesser target is the maximum reduction in energy use that can be achieved through a code that is life cycle cost-justified and technically feasible.

^ (4) ADDITIONAL REDUCTIONS IN ENERGY USE- Effective on January 1, 2033, and once every 3 years thereafter, the Secretary shall determine, after notice and opportunity for comment, whether further energy efficiency building code improvements for residential or commercial buildings, respectively, are life cycle cost-justified and technically feasible, and shall establish updated national building code energy efficiency targets that meet such criteria.

^ (5) ZERO-NET-ENERGY BUILDINGS- In setting targets under this subsection, the Secretary shall consider ways to support the deployment of distributed renewable energy technology, and shall seek to achieve the goal of zero-net-energy commercial buildings established in section 422 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17082).

^ (6) BASELINE CODE- For purposes of this section, the term `baseline code' means--

^ (A) for residential buildings, the 2006 International Energy Conservation Code (IECC) published by the International Code Council (ICC); and

^ (B) for commercial buildings, the code published in ASHRAE Standard 90.1-2004.

^ (7) CONSULTATION- In establishing the targets required by this section, the Secretary shall consult with the Director of the National Institute of Standards and Technology.

^ (b) National Energy Efficiency Building Codes-

^ (1) REQUIREMENT-

^ (A) IN GENERAL- There shall be established national energy efficiency building codes under this subsection, for residential and commercial buildings, sufficient to meet each of the national building code energy efficiency targets established under subsection (a), not later than the date that is 1 year after the deadline for establishment of each such target, except that the national energy efficiency building code established to meet the target described in subsection (a)(1)(A) shall be established by not later than 15 months after the effective date of that target.

^ (B) EXISTING CODE- If the Secretary finds prior to the date provided in subparagraph (A) for establishing a national code for any target that one or more energy efficiency building codes published by a recognized developer of national energy codes and standards meet or exceed the established target, the Secretary shall select the code that meets the target with the highest efficiency in the most cost-effective manner, and such code shall be the national energy efficiency building code.

^ (C) REQUIREMENT TO ESTABLISH CODE- If the Secretary does not make a finding under subparagraph (B), the national energy efficiency building code shall be established by rule by the Secretary under paragraph (2).

^ (2) ESTABLISHMENT BY SECRETARY-

^ (A) PROCEDURE- In order to establish a national energy efficiency building code as required under paragraph (1)(C), the Secretary shall--

^ (i) not later than 6 months prior to the effective date for each target, review existing and proposed codes published or under review by recognized developers of national energy codes and standards;

^ (ii) determine the percentage of energy efficiency improvements that are or would be achieved in such published or proposed code versions relative to the target;

^ (iii) propose improvements to such published or proposed code versions sufficient to meet or exceed the target; and

^ (iv) unless a finding is made under paragraph (1)(B) with respect to a code published by a recognized developer of national energy codes and standards, adopt a code that meets or exceeds the

relevant national building code energy efficiency target by not later than 1 year after the effective date of each such target, and by not later than 15 months after the target is established under subsection (a)(1)(A).

^ (B) CALCULATIONS- Each national energy efficiency building code established by the Secretary under this paragraph shall be set at the maximum level the Secretary determines is life cycle cost-justified and technically feasible, in accordance with the following:

^ (i) SAVINGS CALCULATIONS- Calculations of energy savings shall take into account the typical lifetimes of different products, measures, and system configurations.

^ (ii) COST-EFFECTIVENESS CALCULATIONS- Calculations of life cycle cost-effectiveness shall be based on life cycle cost methods and procedures under section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254), but shall incorporate to the extent feasible externalities such as impacts on climate change and on peak energy demand that are not already incorporated in assumed energy costs.

^ (C) CONSIDERATIONS- In developing a national energy efficiency building code under this paragraph, the Secretary shall consider--

^ (i) for residential national energy efficiency building codes--

^ (I) residential building standards published or proposed by ASHRAE;

^ (II) building codes published or proposed by the International Code Council (ICC);

^ (III) data from the Residential Energy Services Network (RESNET) on compliance measures utilized by consumers to qualify for the residential energy efficiency tax credits established under the Energy Policy Act of 2005;

^ (IV) data and information from the Department of Energy's Building America Program;

^ (V) data and information from the Energy Star New Homes program;

^ (VI) data and information from the New Building Institute and similar organizations; and

^ (VII) standards for practices and materials to achieve cool roofs in residential buildings, taking into consideration reduced air conditioning energy use as a function of cool roofs, the potential reduction in global warming from increased solar reflectance from buildings, and cool roofs criteria in State and local building codes and in national and

local voluntary programs, without reduction of otherwise applicable ceiling insulation standards; and

^ (ii) for commercial national energy efficiency building codes--

^ (I) commercial building standards proposed by ASHRAE;

^ (II) building codes proposed by the International Code Council (ICC);

^ (III) the Core Performance Criteria published by the New Buildings Institute;

^ (IV) data and information developed by the Director of the Commercial High-Performance Green Building Office of the Department of Energy and any public-private partnerships established under that Office;

^ (V) data and information from the Energy Star for Buildings program;

^ (VI) data and information from the New Building Institute, RESNET, and similar organizations; and

^ (VII) standards for practices and materials to achieve cool roofs in commercial buildings, taking into consideration reduced air conditioning energy use as a function of cool roofs, the potential reduction in global warming from increased solar reflectance from buildings, and cool roofs criteria in State and local building codes and in national and local voluntary programs, without reduction of otherwise applicable ceiling insulation standards.

^ (D) CONSULTATION- In establishing any national energy efficiency building code required by this section, the Secretary shall consult with the Director of the National Institute of Standards and Technology.

^ (3) CONSENSUS STANDARD ASSISTANCE- (A) To support the development of consensus standards that may provide the basis for national energy efficiency building codes, minimize duplication of effort, encourage progress through consensus, and facilitate the development of greater building efficiency, the Secretary shall provide assistance to recognized developers of national energy codes and standards to develop, and where the relevant code has been adopted as the national code, disseminate consensus based energy efficiency building codes as provided in this paragraph.

^ (B) Upon a finding by the Secretary that a code developed by such a developer meets a target established under subsection (a), the Secretary shall--

^ (i) send notice of the Secretary's finding to all duly authorized or appointed State, tribal, and local code agencies; and

- ^ (ii) provide sufficient support to such a developer to make the code available on the Internet, or to accomplish distribution of such code to all such State, tribal, and local code agencies at no cost to the State, tribal, and local code agencies.
- ^ (C) The Secretary may contract with such a developer and with other organizations with expertise on codes to provide training for State, tribal, and local code officials and building inspectors in the implementation and enforcement of such code.
- ^ (D) The Secretary may provide grants and other support to such a developer to--
  - ^ (i) develop appropriate refinements to such code; and
  - ^ (ii) support analysis of options for improvements in the code to meet the next scheduled target.
- ^ (4) CODE DEVELOPED BY SECRETARY- If the Secretary establishes a national energy efficiency building code under paragraph (2), the Secretary shall--
  - ^ (A) to the extent that such code is based on a prior code developed by a recognized developer of national energy codes and standards, negotiate and provide appropriate compensation to such developer for the use of the code materials that remain in the code established by the Secretary; and
  - ^ (B) disseminate the national energy efficiency building codes to State, tribal, and local code officials, and support training and provide guidance and technical assistance to such officials as appropriate.
- ^ (c) State Adoption of Energy Efficiency Building Codes--
  - ^ (1) REQUIREMENT- Not later than 1 year after a national energy efficiency building code for residential or commercial buildings is established or revised under subsection (b), each State--
    - ^ (A) shall--
      - ^ (i) review and update the provisions of its building code regarding energy efficiency to meet or exceed the target met in the new national energy efficiency building code, to achieve equivalent or greater energy savings;
      - ^ (ii) document, where local governments establish building codes, that local governments representing not less than 80 percent of the State's urban population have adopted the new national code, or have adopted local codes that meet or exceed the target met in the new national code to achieve equivalent or greater energy savings; or
      - ^ (iii) adopt the new national code; and

^ (B) shall provide a certification to the Secretary demonstrating that energy efficiency building code provisions that apply pursuant to subparagraph (A) in that State meet or exceed the target met by the new national code, to achieve equivalent or greater energy savings.

^ (2) CONFIRMATION-

^ (A) REQUIREMENT- Not later than 90 days after a State certification is provided under paragraph (1)(B), the Secretary shall determine whether the State's energy efficiency building code provisions meet the requirements of this subsection.

^ (B) ACCEPTANCE BY SECRETARY- If the Secretary determines under subparagraph (A) that the State's energy efficiency building code or codes meet the requirements of this subsection, the Secretary shall accept the certification.

^ (C) DEFICIENCY NOTICE- If the Secretary determines under subparagraph (A) that the State's building code or codes do not meet the requirements of this subsection, the Secretary shall identify the deficiency in meeting the national building code energy efficiency target, and, to the extent possible, indicate areas where further improvement in the State's code provisions would allow the deficiency to be eliminated.

^ (D) REVISION OF CODE AND RECERTIFICATION- A State may revise its code or codes and submit a recertification under paragraph (1)(B) to the Secretary at any time.

^ (3) COMPLIANT CODE- For the purposes of meeting the target described in subsection (a)(1)(A) for residential buildings, a State that adopts the code represented in California's Title 24-2009 by the date 27 months after the date of enactment of the American Clean Energy and Security Act of 2009 shall be considered to have met the requirements of this subsection for the applicable period.

^ (d) Application of National Code to State and Local Jurisdictions-

^ (1) IN GENERAL- Upon the expiration of 18 months after a national energy efficiency building code is established under subsection (b), in any jurisdiction where the State has not had a certification relating to that code accepted by the Secretary under subsection (c)(2)(B), and the local government has not had a certification relating to that code accepted by the Secretary under subsection (e)(5), the national energy efficiency building code shall become the applicable energy efficiency building code for such jurisdiction.

^ (2) CONFLICTS- In the event of a conflict between a provision of the national energy efficiency building code and a provision of other applicable energy codes, the national energy efficiency building code shall apply. If there is a conflict between a provision of the national energy efficiency building code and a provision of any applicable fire code, life safety code, egress code, or accessibility code, the Secretary shall take appropriate actions to resolve such conflict in a manner that does not compromise the objectives of such codes.

^ (3) STATE LEGISLATIVE ADOPTION- In a State in which the relevant building energy code is adopted legislatively, the deadline in paragraph (1) shall not be earlier than 1 year after the first day that the legislature meets following establishment of a national energy efficiency building code.

^ (4) NOTICE OF INTENT TO ENFORCE- A State or locality that enforces building codes may assume responsibility for enforcing the national energy efficiency building code by notifying the Secretary to that effect not later than three months after the date established under paragraph (1).

^ (5) VIOLATIONS- Violations of this section shall be defined as follows:

^ (A) If the building is subject to the requirements of a State energy efficiency building code with respect to which a certification has been accepted by the Secretary under subsection (c)(2)(B) or a local energy efficiency building code with respect to which a certification has been accepted by the Secretary pursuant to subsection (e)(5), or the requirements of the national energy efficiency building code in a State where the State or locality has notified the Secretary of its intent to enforce the provisions of the national energy efficiency building code, a violation shall be determined pursuant to the relevant provisions of State or local law.

^ (B) If the building is subject to the requirements of a national energy efficiency building code made applicable under paragraph (1) of this subsection, except as provided in subparagraph (A), a violation shall be defined by the Secretary pursuant to subsection (g).

^ (e) State Enforcement of Energy Efficiency Building Codes-

^ (1) IN GENERAL- Each State, or where applicable under State law each local government, shall implement and enforce applicable State or local codes with respect to which a certification was accepted by the Secretary under subsection (c)(2)(B) or paragraph (5) of this subsection, or the national energy efficiency building codes, as provided in this subsection.

^ (2) STATE CERTIFICATION- Not later than 2 years after the date of a certification under subsection (c)(1) or the application of a national energy efficiency building code under subsection (d)(1), each State shall certify that it has--

^ (A) achieved compliance with--

^ (i) State codes, or, as provided under State law, local codes, with respect to which a certification was accepted by the Secretary under subsection (c)(2)(B); or

^ (ii) the national energy efficiency building code, as applicable; or

^ (B) for any certification submitted within 7 years after the date of enactment of the American Clean Energy and Security Act of 2009, made significant progress toward achieving such compliance.

^ (3) ACHIEVING COMPLIANCE- A State shall be considered to achieve compliance with a code described in paragraph (2)(A) if at least 90 percent of new and substantially renovated building space in that State in the preceding year upon inspection meets the requirements of the code. A certification under paragraph (2) shall include documentation of the rate of compliance based on--

^ (A) independent inspections of a random sample of the new and substantially renovated buildings covered by the code in the preceding year; or

^ (B) an alternative method that yields an accurate measure of compliance as determined by the Secretary.

^ (4) SIGNIFICANT PROGRESS- A State shall be considered to have made significant progress toward achieving compliance with a code described in paragraph (2)(A) if--

^ (A) the State has developed a plan, including for hiring enforcement staff, providing training, providing manuals and checklists, and instituting enforcement programs, designed to achieve full compliance within 5 years after the date of the adoption of the code;

^ (B) the State is taking significant, timely, and measurable action to implement that plan;

^ (C) the State has not reduced its expenditures for code enforcement; and

^ (D) at least 50 percent of new and substantially renovated building space in the State in the preceding year upon inspection meets the requirements of the code.

^ (5) Secretary'S DETERMINATION- Not later than 90 days after a State certification under paragraph (2), the Secretary shall determine whether the State has demonstrated that it has complied with the requirements of this subsection, including accurate measurement of compliance, or that it has made significant progress toward compliance. If such determination is positive, the Secretary shall accept the certification. If the determination is negative, the Secretary shall identify the areas of deficiency.

^ (6) OUT OF COMPLIANCE-

^ (A) IN GENERAL- Any State for which the Secretary has not accepted a certification under paragraph (5) by the dates specified in paragraph (2) is out of compliance with this section.

^ (B) LOCAL COMPLIANCE- In any State that is out of compliance with this section as provided in subparagraph (A), a local government may be in compliance with this section by meeting all certification requirements of this subsection.

^ (C) NONCOMPLIANCE- Any State that is not in compliance with this section, as provided in subparagraph (A), shall, until the State regains such compliance, be ineligible to receive--

^ (i) emission allowances pursuant to subsection (h)(1);

^ (ii) Federal funding in excess of that State's share (calculated according to the allocation formula in section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6323)) of \$125,000,000 each year; and

^ (iii) for--

^ (I) the first year for which the State is out of compliance, 25 percent of any additional funding or other items of monetary value otherwise provided under the American Clean Energy and Security Act of 2009;

^ (II) the second year for which the State is out of compliance, 50 percent of any additional funding or other items of monetary value otherwise provided under the American Clean Energy and Security Act of 2009;

^ (III) the third year for which the State is out of compliance, 75 percent of any additional funding or other items of monetary value otherwise provided under the American Clean Energy and Security Act of 2009; and

^ (IV) the fourth and subsequent years for which the State is out of compliance, 100 percent of any additional funding or other items of monetary value otherwise provided under the American Clean Energy and Security Act of 2009.

^ (f) Federal Enforcement and Training- Where a State fails and local governments in that State also fail to enforce the applicable State or national energy efficiency building codes, the Secretary shall enforce such codes, as follows:

^ (1) The Secretary shall establish, by rule, within 2 years after the date of enactment of the American Clean Energy and Security Act of 2009, an energy efficiency building code enforcement capability.

^ (2) Such enforcement capability shall be designed to achieve 90 percent compliance with such code in any State within 1 year after the date of the Secretary's determination that such State is out of compliance with this section.

^ (3) The Secretary may set and collect reasonable inspection fees to cover the costs of inspections required for such enforcement. Revenue from fees collected shall be available to the Secretary to carry out the requirements of this section upon appropriation.

^ (4) In any jurisdiction to which this subsection applies, the Secretary shall coordinate enforcement of the national energy efficiency building code with State and local code enforcement of other building codes.

^ (5) In any jurisdiction to which this subsection applies, the Secretary shall enhance compliance by conducting training and education of builders and other professionals in the jurisdiction concerning the national energy efficiency building code.

^ (6) The Secretary shall coordinate with professional organizations representing code officials, architects, engineers, builders, and other experts to develop training curricula concerning the national energy efficiency building code.

^ (7) If the Secretary enforces such codes under this subsection, the Secretary may, as appropriate, redefine violations of such codes.

^ (g) Enforcement Procedures- The Secretary shall propose and, not later than 3 years after the date of enactment of the American Clean Energy and Security Act of 2009, shall define by rule violations of the energy efficiency building codes to be enforced by the Secretary pursuant to this section, and the penalties that shall apply to violators, in any jurisdiction in which the national energy efficiency building code has been made applicable under subsection (d)(1). To the extent that the Secretary determines that the authority to adopt and impose such violations and penalties by rule requires further statutory authority, the Secretary shall report such determination to Congress as soon as such determination is made, but not later than 1 year after the enactment of the American Clean Energy and Security Act of 2009.

^ (h) Federal Support-

^ (1) ALLOWANCE ALLOCATION FOR STATE COMPLIANCE- For each vintage year from 2012 through 2050, the Administrator shall distribute allowances allocated pursuant to section 782(g)(2) of the Clean Air Act to the SEED Account for each State. Such allowances shall be distributed according to a formula established by the Secretary as follows:

^ (A) One-fifth in an equal amount to each of the 50 States and United States territories.

^ (B) Two-fifths as a function of the relative energy use in all buildings in each State in the most recent year for which data is available.

^ (C) Two-fifths based on the number of building construction starts recorded in each State, the number of new building permits applied for in each State, or other relevant available data indicating building activity in each State, in the judgment of the Secretary, for the year prior to the year of the distribution.

^ (2) ALLOWANCE ALLOCATION TO LOCAL GOVERNMENTS- In the instance that the Secretary certifies that one or more local governments are in compliance with this section pursuant to subsection (e)(6)(B), the Administrator shall provide to each such local government the portion of the emission allowances that would have been provided to that State as a function of the population of that locality as a proportion of the population of that State as a whole.

^ (3) UNALLOCATED ALLOWANCES- To the extent that allowances are not provided to State or local governments for lack of certification in any year, those allowances shall be added to the amount provided to those States and local governments that are certified as eligible in that year.

^ (4) USE OF ALLOWANCES- Each State or each local government shall use such emission allowances as it receives pursuant to this section exclusively for the purposes of this section, including covering a reasonable portion of the costs of the development, adoption, implementation, and enforcement of a State or local energy efficiency building code that meets the national building code energy efficiency targets, or the national energy efficiency building code. In a State where local governments provide substantially all building code enforcement, a minimum of 50 percent of the allowance value received pursuant to this section shall be distributed to local governments as a function of the relative populations of such localities. In a State where local and State governments share building code enforcement duties, the State and local shares of allowance value required for enforcement shall be allocated in proportion to the number of building inspections performed by each level of government, and the share for local governments shall be distributed as a function of the relative populations of such localities. States shall further ensure that the allowance value made available pursuant to section 782 of the Clean Air Act and section 132 of the American Clean Energy and Security Act of 2009 is provided to the applicable State or local governmental entities as necessary to adopt and implement energy efficiency building codes, provide training for inspectors, ensure compliance, and provide such other functions as necessary. Actions taken by local authorities pursuant to this section shall constitute an acceptable use of funds authorized pursuant to the Energy Efficiency and Conservation Block Grant program under section 544 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17154).

^ (i) Authorization of Appropriations- There are authorized to be appropriated to the Secretary of Energy \$25,000,000, and such additional sums as may be necessary to provide enforcement of a national energy efficiency building code, for each of fiscal years 2010 through 2020, and such sums thereafter as may be necessary to support the purposes of this section.

^ (j) Annual Reports by Secretary- The Secretary shall annually submit to Congress, and publish in the Federal Register, a report on--

^ (1) the status of national energy efficiency building codes;

^ (2) the status of energy efficiency building code adoption and compliance in the States;

^ (3) the implementation of this section;

^ (4) the status of Federal enforcement of building codes, including coordination with State and local enforcement, and the extent and resolution of any conflicts between the national energy efficiency building code and other residential and commercial building codes in force in the same jurisdictions; and

` (5) impacts of past action under this section, and potential impacts of further action, on lifetime energy use by buildings, including resulting energy and cost savings.'.

## **SEC. 202. BUILDING RETROFIT PROGRAM.**

(a) Definitions- For purposes of this section:

(1) ASSISTED HOUSING- The term `assisted housing' means those properties receiving project-based assistance pursuant to section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013), section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), or similar programs.

(2) NONRESIDENTIAL BUILDING- The term `nonresidential building' means a building with a primary use or purpose other than residential housing, including any building used for commercial offices, schools, academic and other public and private institutions, nonprofit organizations including faith-based organizations, hospitals, hotels, and other nonresidential purposes. Such buildings shall include mixed-use properties used for both residential and nonresidential purposes in which more than half of building floor space is nonresidential.

(3) PERFORMANCE-BASED BUILDING RETROFIT PROGRAM- The term `performance-based building retrofit program' means a program that determines building energy efficiency success based on actual measured savings after a retrofit is complete, as evidenced by energy invoices or evaluation protocols.

(4) PRESCRIPTIVE BUILDING RETROFIT PROGRAM- The term `prescriptive building retrofit program' means a program that projects building retrofit energy efficiency success based on the known effectiveness of measures prescribed to be included in a retrofit.

(5) PUBLIC HOUSING- The term `public housing' means properties receiving assistance under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g).

(6) RECOMMISSIONING; RETROCOMMISSIONING- The terms `recommissioning' and `retrocommissioning' have the meaning given those terms in section 543(f)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(f)(1)).

(7) RESIDENTIAL BUILDING- The term `residential building' means a building whose primary use is residential. Such buildings shall include single-family homes (both attached and detached), owner-occupied units in larger buildings with their own dedicated space-conditioning systems, apartment buildings, multi-unit condominium buildings, public housing, assisted housing, and buildings used for both residential and nonresidential purposes in which more than half of building floor space is residential.

(8) STATE ENERGY PROGRAM- The term `State Energy Program' means the program under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

(b) Establishment- The Administrator shall develop and implement, in consultation with the Secretary of Energy, standards for a national energy and environmental building retrofit policy for single-family and multifamily residences. The Administrator shall develop and implement, in consultation with the Secretary of Energy and the Director of Commercial High-Performance Green Buildings, standards for a national energy and environmental building retrofit policy for nonresidential buildings. The programs to implement the residential and nonresidential policies based on the standards developed under this section shall together be known as the Retrofit for Energy and Environmental Performance (REEP) program.

(c) Purpose- The purpose of the REEP program is to facilitate the retrofitting of existing buildings across the United States to achieve maximum cost-effective energy efficiency improvements and significant improvements in water use and other environmental attributes.

(d) Federal Administration-

(1) EXISTING PROGRAMS- In creating and operating the REEP program--

(A) the Administrator shall make appropriate use of existing programs, including the Energy Star program and in particular the Environmental Protection Agency Energy Star for Buildings program; and

(B) the Secretary of Energy shall make appropriate use of existing programs, including delegating authority to the Director of Commercial High-Performance Green Buildings appointed under section 421 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17081), who shall designate and provide funding to support a high-performance green building partnership consortium pursuant to subsection (f) of such section to support efforts under this section.

(2) CONSULTATION AND COORDINATION- The Administrator and the Secretary of Energy shall consult with and coordinate with the Secretary of Housing and Urban Development in carrying out the REEP program with regard to retrofitting of public housing and assisted housing. As a result of such consultation, the Administrator shall establish standards to ensure that retrofits of public housing and assisted housing funded pursuant to this section are cost-effective, including opportunities to address the potential co-performance of repair and replacement needs that may be supported with other forms of Federal assistance. Owners of public housing or assisted housing receiving funding through the REEP program shall agree to continue to provide affordable housing consistent with the provisions of the authorizing legislation governing each program for an additional period commensurate with the funding received, as determined in accordance with guidelines established by the Secretary of Housing and Urban Development.

(3) ASSISTANCE- The Administrator and the Secretary of Energy shall provide consultation and assistance to State and local agencies for the establishment

of revolving loan funds, loan guarantees, or other forms of financial assistance under this section.

(e) State and Local Administration-

(1) DESIGNATION AND DELEGATION- A State may designate one or more agencies or entities, including those regulated by the State, to carry out the purposes of this section, but shall designate one entity or individual as the principal point of contact for the Administrator regarding the REEP Program. The designated State agency, agencies, or entities may delegate performance of appropriate elements of the REEP program, upon their request and subject to State law, to counties, municipalities, appropriate public agencies, and other divisions of local government, as well as to entities regulated by the State. In making any such designation or delegation, a State shall give priority to entities that administer existing comprehensive retrofit programs, including those under the supervision of State utility regulators. States shall maintain responsibility for meeting the standards and requirements of the REEP program. In any State that elects not to administer the REEP program, a unit of local government may propose to do so within its jurisdiction, and if the Administrator finds that such local government is capable of administering the program, the Administrator may provide allowances to that local government, prorated according to the population of the local jurisdiction relative to the population of the State, for purposes of the REEP program.

(2) EMPLOYMENT- States and local government entities may administer a REEP program in a manner that authorizes public or regulated investor-owned utilities, building auditors and inspectors, contractors, nonprofit organizations, for-profit companies, and other entities to perform audits and retrofit services under this section. A State may provide incentives for retrofits without direct participation by the State or its agents, so long as the resulting savings are measured and verified. A State or local administrator of a REEP program shall seek to ensure that sufficient qualified entities are available to support retrofit activities so that building owners have a competitive choice among qualified auditors, raters, contractors, and providers of services related to retrofits. Nothing in this section is intended to deny the right of a building owner to choose the specific providers of retrofit services to engage for a retrofit project in that owner's building.

(3) EQUAL INCENTIVES FOR EQUAL IMPROVEMENT- In general, the States should strive to offer the same levels of incentives for retrofits that meet the same efficiency improvement goals, regardless of whether the State, its agency or entity, or the building owner has conducted the retrofit achieving the improvement, provided the improvement is measured and verified.

(f) Elements of Reep Program- The Administrator, in consultation with the Secretary of Energy, shall establish goals, guidelines, practices, and standards for accomplishing the purpose stated in subsection (c), and shall annually review and, as appropriate, revise such goals, guidelines, practices, and standards. The program under this section shall include the following:

(1) Residential Energy Services Network (RESNET) or Building Performance Institute (BPI) analyst certification of residential building energy and

environment auditors, inspectors, and raters, or an equivalent certification system as determined by the Administrator.

(2) BPI certification or licensing by States of residential building energy and environmental retrofit contractors, or an equivalent certification or licensing system as determined by the Administrator.

(3) Provision of BPI, RESNET, or other appropriate information on equipment and procedures, as determined by the Administrator, that contractors can use to test the energy and environmental efficiency of buildings effectively (such as infrared photography and pressurized testing, and tests for water use and indoor air quality).

(4) Provision of clear and effective materials to describe the testing and retrofit processes for typical buildings.

(5) Guidelines for offering and managing prescriptive building retrofit programs and performance-based building retrofit programs for residential and nonresidential buildings.

(6) Guidelines for applying recommissioning and retrocommissioning principles to improve a building's operations and maintenance procedures.

(7) A requirement that building retrofits conducted pursuant to a REEP program utilize, especially in all air-conditioned buildings, roofing materials with high solar energy reflectance, unless inappropriate due to green roof management, solar energy production, or for other reasons identified by the Administrator, in order to reduce energy consumption within the building, increase the albedo of the building's roof, and decrease the heat island effect in the area of the building, without reduction of otherwise applicable ceiling insulation standards.

(8) Determination of energy savings in a performance-based building retrofit program through--

(A) for residential buildings, comparison of before and after retrofit scores on the Home Energy Rating System (HERS) Index, where the final score is produced by an objective third party;

(B) for nonresidential buildings, Environmental Protection Agency Portfolio Manager benchmarks; or

(C) for either residential or nonresidential buildings, use of an Administrator-approved simulation program by a contractor with the appropriate certification, subject to appropriate software standards and verification of at least 15 percent of all work done, or such other percentage as the Administrator may determine.

(9) Guidelines for utilizing the Energy Star Portfolio Manager, the Home Energy Rating System (HERS) rating system, Home Performance with Energy Star program approvals, and any other tools associated with the retrofit program.

(10) Requirements and guidelines for post-retrofit inspection and confirmation of work and energy savings.

(11) Detailed descriptions of funding options for the benefit of State and local governments, along with model forms, accounting aids, agreements, and guides to best practices.

(12) Guidance on opportunities for--

(A) rating or certifying retrofitted buildings as Energy Star buildings, or as green buildings under a recognized green building rating system;

(B) assigning Home Energy Rating System (HERS) or similar ratings; and

(C) completing any applicable building performance labels.

(13) Sample materials for publicizing the program to building owners, including public service announcements and advertisements.

(14) Processes for tracking the numbers and locations of buildings retrofitted under the REEP program, with information on projected and actual savings of energy and its value over time.

(g) Requirements- As a condition of receiving allowances for the REEP program pursuant to this Act, a State or qualifying local government shall--

(1) adopt the standards for training, certification of contractors, certification of buildings, and post-retrofit inspection as developed by the Administrator for residential and nonresidential buildings, respectively, except as necessary to match local conditions, needs, efficiency opportunities, or other local factors, or to accord with State laws or regulations, and then only after the Administrator approves such a variance;

(2) establish fiscal controls and accounting procedures (which conform to generally accepted government accounting principles) sufficient to ensure proper accounting during appropriate accounting periods for payments received and disbursements, and for fund balances; and

(3) agree to make not less than 10 percent of allowance value received pursuant to section 132(c)(2) for dedicated funding of its REEP program available on a preferential basis for retrofit projects proposed for public housing and assisted housing, provided that--

(A) none of such funds shall be used for demolition of such housing;

(B) such retrofits shall not be used to justify any increase in rents charged to residents of such housing; and

(C) owners of such housing shall agree to continue to provide affordable housing consistent with the provisions of the authorizing legislation governing each program for an additional period commensurate with the funding received.

The Administrator shall conduct or require each State to have such independent financial audits of REEP-related funding as the Administrator considers necessary or appropriate to carry out the purposes of this section.

(h) Options to Support Reep Program- The emission allowances provided pursuant to this Act to the States SEED Accounts shall support the implementation through State REEP programs of alternate means of creating incentives for, or reducing financial barriers to, improved energy and environmental performance in buildings, consistent with this section, including--

(1) implementing prescriptive building retrofit programs and performance-based building retrofit programs;

(2) providing credit enhancement, interest rate subsidies, loan guarantees, or other credit support;

(3) providing initial capital for public revolving fund financing of retrofits, with repayments by beneficiary building owners over time through their tax payments, calibrated to create net positive cash flow to the building owner;

(4) providing funds to support utility-operated retrofit programs with repayments over time through utility rates, calibrated to create net positive cash flow to the building owner, and transferable from one building owner to the next with the building's utility services;

(5) providing funds to local government programs to provide REEP services and financial assistance; and

(6) other means proposed by State and local agencies, subject to the approval of the Administrator.

(i) Support for Program-

(1) USE OF ALLOWANCES- Direct Federal support for the REEP program is provided through the emission allowances allocated to the States' SEED Accounts pursuant to section 132 of this Act. To the extent that a State provides allowances to local governments within the State to implement elements of the REEP Program, that shall be deemed a distribution of such allowances to units of local government pursuant to subsection (c)(1) of that section.

(2) INITIAL AWARD LIMITS- Except as provided in paragraph (3), State and local REEP programs may make per-building direct expenditures for retrofit improvements, or their equivalent in indirect or other forms of financial support, from funds derived from the sale of allowances received directly from the Administrator in amounts not to exceed the following amounts per unit:

(A) RESIDENTIAL BUILDING PROGRAM-

(i) AWARDS- For residential buildings--

(I) support for a free or low-cost detailed building energy audit that prescribes measures sufficient to achieve at least a 20 percent reduction in energy use, by providing an incentive

equal to the documented cost of such audit, but not more than \$200, in addition to any earned by achieving a 20 percent or greater efficiency improvement;

(II) a total of \$1,000 for a combination of measures, prescribed in an audit conducted under subclause (I), designed to reduce energy consumption by more than 10 percent, and \$2,000 for a combination of measures prescribed in such an audit, designed to reduce energy consumption by more than 20 percent;

(III) \$3,000 for demonstrated savings of 20 percent, pursuant to a performance-based building retrofit program; and

(IV) \$1,000 for each additional 5 percentage points of energy savings achieved beyond savings for which funding is provided under subclause (II) or (III).

Funding shall not be provided under clauses (II) and (III) for the same energy savings.

(ii) MAXIMUM PERCENTAGE- Awards under clause (i) shall not exceed 50 percent of retrofit costs for each building. For buildings with multiple residential units, awards under clause (i) shall not be greater than 50 percent of the total cost of retrofitting the building, prorated among individual residential units on the basis of relative costs of the retrofit. In the case of public housing and assisted housing, the 50 percent contribution matching the contribution from REEP program funds may come from any other source, including other Federal funds.

(iii) ADDITIONAL AWARDS- Additional awards may be provided for purposes of increasing energy efficiency, for buildings achieving at least 20 percent energy savings using funding provided under clause (i), in the form of grants of not more than \$600 for measures projected or measured (using an appropriate method approved by the Administrator) to achieve at least 35 percent potable water savings through equipment or systems with an estimated service life of not less than 7 years, and not more than an additional \$20 may be provided for each additional one percent of such savings, up to a maximum total grant of \$1,200.

**(B) NONRESIDENTIAL BUILDING PROGRAM-**

(i) AWARDS- For nonresidential buildings--

(I) support for a free or low-cost detailed building energy audit that prescribes, as part of a energy-reducing measures sufficient to achieve at least a 20 percent reduction in energy use, by providing an incentive equal to the documented cost of such audit, but not more than \$500, in addition to any

award earned by achieving a 20 percent or greater efficiency improvement;

(II) \$0.15 per square foot of retrofit area for demonstrated energy use reductions from 20 percent to 30 percent;

(III) \$0.75 per square foot for demonstrated energy use reductions from 30 percent to 40 percent;

(IV) \$1.60 per square foot for demonstrated energy use reductions from 40 percent to 50 percent; and

(V) \$2.50 per square foot for demonstrated energy use reductions exceeding 50 percent.

(ii) MAXIMUM PERCENTAGE- Amounts provided under subclauses (II) through (V) of clause (i) combined shall not exceed 50 percent of the total retrofit cost of a building. In nonresidential buildings with multiple units, such awards shall be prorated among individual units on the basis of relative costs of the retrofit.

(iii) ADDITIONAL AWARDS- Additional awards may be provided, for buildings achieving at least 20 percent energy savings using funding provided under clause (i), as follows:

(I) WATER- For purposes of increasing energy efficiency, grants may be made for whole building potable water use reduction (using an appropriate method approved by the Administrator) for up to 50 percent of the total retrofit cost, including amounts up to--

(aa) \$24.00 per thousand gallons per year of potable water savings of 40 percent or more;

(bb) \$27.00 per thousand gallons per year of potable water savings of 50 percent or more; and

(cc) \$30.00 per thousand gallons per year of potable water savings of 60 percent or more.

(II) ENVIRONMENTAL IMPROVEMENTS- Additional awards of up to \$1,000 may be granted for the inclusion of other environmental attributes that the Administrator, in consultation with the Secretary, identifies as contributing to energy efficiency. Such attributes may include, but are not limited to waste diversion and the use of environmentally preferable materials (including salvaged, renewable, or recycled materials, and materials with no or low-VOC content). The Administrator may recommend that States develop such standards as are necessary to account for local or regional conditions that may affect the feasibility or availability of identified resources and attributes.

(iv) INDOOR AIR QUALITY MINIMUM- Nonresidential buildings receiving incentives under this section must satisfy at a minimum the most recent version of ASHRAE Standard 62.1 for ventilation, or the equivalent as determined by the Administrator. A State may issue a waiver from this requirement to a building project on a showing that such compliance is infeasible due to the physical constraints of the building's existing ventilation system, or such other limitations as may be specified by the Administrator.

(C) DISASTER DAMAGED BUILDINGS- Any source of funds, including Federal funds provided through the Robert T. Stafford Disaster Relief and Emergency Assistance Act, shall qualify as the building owner's 50 percent contribution, in order to match the contribution of REEP funds, so long as the REEP funds are only used to improve the energy efficiency of the buildings being reconstructed. In addition, the appropriate Federal agencies providing assistance to building owners through the Robert T. Stafford Disaster Relief and Emergency Assistance Act shall make information available, following a disaster, to building owners rebuilding disaster damaged buildings with assistance from the Act, that REEP funds may be used for energy efficiency improvements.

(D) HISTORIC BUILDINGS- Notwithstanding subparagraphs (A) and (B), a building in or eligible for the National Register of Historic Places shall be eligible for awards under this paragraph in amounts up to 120 percent of the amounts set forth in subparagraphs (A) and (B).

(E) SUPPLEMENTAL SUPPORT- State and local governments may supplement the per-building expenditures under this paragraph with funding from other sources.

(3) ADJUSTMENT- The Administrator may adjust the specific dollar limits funded by the sale of allowances pursuant to paragraph (2) in years subsequent to the second year after the date of enactment of this Act, and every 2 years thereafter, as the Administrator determines necessary to achieve optimum cost-effectiveness and to maximize incentives to achieve energy efficiency within the total building award amounts provided in that paragraph, and shall publish and hold constant such revised limits for at least 2 years.

(j) Report to Congress- The Administrator shall conduct an annual assessment of the achievements of the REEP program in each State, shall prepare an annual report of such achievements and any recommendations for program modifications, and shall provide such report to Congress at the end of each fiscal year during which funding or other resources were made available to the States for the REEP Program.

(k) Other Sources of Federal Support-

(1) ADDITIONAL STATE ENERGY PROGRAM FUNDS- Any Federal funding provided to a State Energy Program that is not required to be expended for a different federally designated purpose may be used to support a REEP program.

(2) PROGRAM ADMINISTRATION- State Energy Offices or designated State agencies may expend up to 10 percent of available allowance value provided under this section for program administration.

(3) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated for the purposes of this section, for each of fiscal years 2010, 2011, 2012, and 2013--

(A) \$50,000,000 to the Administrator for program administration costs; and

(B) \$20,000,000 to the Secretary of Energy for program administration costs.

## **SEC. 203. ENERGY EFFICIENT MANUFACTURED HOMES.**

(a) Definitions- In this section:

(1) MANUFACTURED HOME- The term `manufactured home' has the meaning given such term in section 603 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402).

(2) ENERGY STAR QUALIFIED MANUFACTURED HOME- The term `Energy Star qualified manufactured home' means a manufactured home that has been designed, produced, and installed in accordance with Energy Star's guidelines by an Energy Star certified plant.

(b) Purpose- The purpose of this section is to assist low-income households residing in manufactured homes constructed prior to 1976 to save energy and energy expenditures by providing support toward the purchase of new Energy Star qualified manufactured homes.

(c) State Implementation of Program-

(1) MANUFACTURED HOME REPLACEMENT PROGRAM- Any State may provide to the owner of a manufactured home constructed prior to 1976 a rebate to use toward the purchase of a new Energy Star qualified manufactured home pursuant to this section.

(2) USE OF ALLOWANCES- Direct Federal support for the program established in this section is provided through the emission allowances allocated to the States' SEED Accounts pursuant to section 132 of this Act. To the extent that a State provides allowances to local governments within the State to implement this program, that shall be deemed a distribution of such allowances to units of local government pursuant to subsection (c)(1) of that section.

(3) REBATES-

(A) PRIMARY RESIDENCE REQUIREMENT- A rebate described under paragraph (1) may only be made to an owner of a manufactured home constructed prior to 1976 that is used on a year-round basis as a primary residence.

(B) DISMANTLING AND REPLACEMENT- A rebate described under paragraph (1) may be made only if the manufactured home constructed prior to 1976 will be--

(i) rendered unusable for human habitation (including appropriate recycling); and

(ii) replaced, in the same general location, as determined by the applicable State agency, with an Energy Star qualified manufactured home.

(C) SINGLE REBATE- A rebate described under paragraph (1) may not be provided to any owner of a manufactured home constructed prior to 1976 that was or is a member of a household for which any other member of the household was provided a rebate pursuant to this section.

(D) ELIGIBLE HOUSEHOLDS- To be eligible to receive a rebate described under paragraph (1), an owner of a manufactured home constructed prior to 1976 shall demonstrate to the applicable State agency that the total income of all members the owner's household does not exceed 200 percent of the Federal poverty level for income in the applicable area.

(E) ADVANCE AVAILABILITY- A rebate may be provided under this section in a manner to facilitate the purchase of a new Energy Star qualified manufactured home.

(4) REBATE LIMITATION- Rebates provided by States under this section shall not exceed \$7,500 per manufactured home from any value derived from the use of emission allowances provided to the State pursuant to section 132.

(5) USE OF STATE FUNDS- A State providing rebates under this section may supplement the amount of such rebates under paragraph (4) by any additional amount is from State funds and other sources, including private donations or grants from charitable organizations.

(6) COORDINATION WITH SIMILAR PROGRAMS-

(A) STATE PROGRAMS- A State conducting an existing program that has the purpose of replacing manufactured homes constructed prior to 1976 with Energy Star qualified manufactured homes, may use allowance value provided under section 782 of the Clean Air Act to support such a program, provided such funding does not exceed the rebate limitation amount under paragraph (4).

(B) FEDERAL PROGRAMS- The Secretary of Energy shall coordinate with and seek to achieve the purpose of this section through similar Federal programs including--

(i) the Weatherization Assistance Program under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.); and

(ii) the program under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

(C) COORDINATION WITH OTHER STATE AGENCIES- A State agency using allowance value to administer the program under this section may coordinate its efforts, and share funds for administration, with other State agencies involved in low-income housing programs.

(7) ADMINISTRATIVE EXPENSES- A State using allowance value under this section may expend not more than 10 percent of such value for administrative expenses related to this program.

## **SEC. 204. BUILDING ENERGY PERFORMANCE LABELING PROGRAM.**

### (a) Establishment-

(1) PURPOSE- The Administrator shall establish a building energy performance labeling program with broad applicability to the residential and commercial markets to enable and encourage knowledge about building energy performance by owners and occupants and to inform efforts to reduce energy consumption nationwide.

(2) COMPONENTS- In developing such program, the Administrator shall--

(A) consider existing programs, such as Environmental Protection Agency's Energy Star program, the Home Energy Rating System (HERS) Index, and programs at the Department of Energy;

(B) support the development of model performance labels for residential and commercial buildings; and

(C) utilize incentives and other means to spur use of energy performance labeling of public and private sector buildings nationwide.

### (b) Data Assessment for Building Energy Performance-

(1) INITIAL REPORT- Not later than 90 days after the date of enactment of this Act, the Administrator shall provide to Congress, as well as to the Secretary of Energy and the Office of Management and Budget, a report identifying--

(A) all principal building types for which statistically significant energy performance data exists to serve as the basis of measurement protocols and labeling requirements for achieved building energy performance; and

(B) those building types for which additional data are required to enable the development of such protocols and requirements.

(2) ADDITIONAL REPORTS- Additional updated reports shall be provided under this subsection as often as The Administrator considers practicable, but not less than every 2 years.

### (c) Building Data Acquisition-

(1) RESOURCE REQUIREMENTS- For all principal building types identified under subsection (b), the Secretary of Energy, not later than 90 days after a report by the Administrator under subsection (b), shall provide to Congress, the Administrator, and the Office of Management and Budget a statement of additional resources needed, if any, to fully develop the relevant data, as well as the anticipated timeline for data development.

(2) CONSULTATION- The Secretary of Energy shall consult with the Administrator concerning the Administrator's ability to use data series for these additional building types to support the achieved performance component in the labeling program.

(3) IMPROVEMENTS TO BUILDING ENERGY CONSUMPTION DATABASES-

(A) COMMERCIAL DATABASE- The Secretary of Energy shall support improvements to the Commercial Buildings Energy Consumption Survey (CBECS) as authorized by section 205(k) of the Department of Energy Organization Act (42 U.S.C. 7135(k))--

(i) to enable complete and robust data for the actual energy performance of principal building types currently covered by survey;

(ii) to cover additional building types as identified by the Administrator under subsection (b)(1)(B), to enable the development of achieved performance measurement protocols are developed for at least 90 percent of all major commercial building types within 5 years after the date of enactment of this Act; and

(iii) to include third-party audits of random data samplings to ensure the quality and accuracy of survey information.

(B) RESIDENTIAL DATABASES- The Administrator, in consultation with the Energy Information Administration and the Secretary of Energy, shall support improvements to the Residential Energy Consumption Survey (RECS) as authorized by section 205(k) of the Department of Energy Organization Act (42 U.S.C. 7135(k)), or such other residential energy performance databases as the Administrator considers appropriate, to aid the development of achieved performance measurement protocols for residential building energy use for at least 90 percent of the residential market within 5 years after the date of enactment of this Act.

(C) CONSULTATION- The Secretary of Energy and the Administrator shall consult with public, private, and nonprofit sector representatives from the building industry and real estate industry to assist in the evaluation and improvement of building energy performance databases and labeling programs.

(d) Identification of Measurement Protocols for Achieved Performance-

(1) PROPOSED PROTOCOLS AND REQUIREMENTS- At the earliest practicable date, but not later than 1 year after identifying a building type under

subsection (b)(1)(A), the Administrator shall propose a measurement protocol for that building type and a requirement detailing how to use that protocol in completing applicable commercial or residential performance labels created pursuant to this section.

(2) FINAL RULE- After providing for notice and comment, the Administrator shall publish a final rule containing a measurement protocol and the corresponding requirements for applying that protocol. Such a rule--

(A) shall define the minimum period for measurement of energy use by buildings of that type and other details for determining achieved performance, to include leased buildings or parts thereof;

(B) shall identify necessary data collection and record retention requirements; and

(C) may specify transition rules and exemptions for classes of buildings within the building type.

(e) Procedures for Evaluating Designed Performance- The Administrator shall develop protocols for evaluating the designed performance of individual building types. The Administrator may conduct such feasibility studies and demonstration projects as are necessary to evaluate the sufficiency of proposed protocols for designed performance.

(f) Creation of Building Energy Performance Labeling Program-

(1) MODEL LABEL- Not later than 1 year after the date of enactment of this Act, the Administrator shall propose a model building energy label that provides a format--

(A) to display achieved performance and designed performance data;

(B) that may be tailored for residential and commercial buildings, and for single-occupancy and multitenanted buildings; and

(C) to display other appropriate elements identified during the development of measurement protocols under subsections (d) and (e).

(2) INCLUSIONS- Nothing in this section shall require the inclusion on such a label of designed performance data where impracticable or not cost effective, or to preclude the display of both achieved performance and designed performance data for a particular building where both such measures are available, practicable, and cost effective.

(3) EXISTING PROGRAMS- In developing the model label, the Administrator shall consider existing programs, including--

(A) the Environmental Protection Agency's Energy Star Portfolio Manager program and the California HERS II Program Custom Approach for the achieved performance component of the label;

(B) the Home Energy Rating System (HERS) Index system for the designed performance component of the label; and

(C) other Federal and State programs, including the Department of Energy's related programs on building technologies and those of the Federal Energy Management Program.

(4) FINAL RULE- After providing for notice and comment, the Administrator shall publish a final rule containing the label applicable to covered building types.

(g) Demonstration Projects for Labeling Program-

(1) IN GENERAL- The Administrator shall conduct building energy performance labeling demonstration projects for different building types--

(A) to ensure the sufficiency of the current Commercial Buildings Energy Consumption Survey and other data to serve as the basis for new measurement protocols for the achieved performance component of the building energy performance labeling program;

(B) to inform the development of measurement protocols for building types not currently covered by the Commercial Buildings Energy Consumption Survey; and

(C) to identify any additional information that needs to be developed to ensure effective use of the model label.

(2) PARTICIPATION- Such demonstration projects shall include participation of--

(A) buildings from diverse geographical and climate regions;

(B) buildings in both urban and rural areas;

(C) single-family residential buildings;

(D) multihousing residential buildings with more than 50 units, including at least one project that provides affordable housing to individuals of diverse incomes;

(E) single-occupant commercial buildings larger than 30,000 square feet;

(F) multitenanted commercial buildings larger than 50,000 square feet; and

(G) buildings from both the public and private sectors.

(3) PRIORITY- Priority in the selection of demonstration projects shall be given to projects that facilitate large-scale implementation of the labeling program for samples of buildings across neighborhoods, geographic regions, cities, or States.

(4) FINDINGS- The Administrator shall report any findings from demonstration projects under this subsection, including an identification of

any areas of needed data improvement, to the Department of Energy's Energy Information Administration and Building Technologies Program.

(5) COORDINATION- The Administrator and the Secretary of Energy shall coordinate demonstration projects undertaken pursuant to this subsection with those undertaken as part of the Zero-Net-Energy Commercial Buildings Initiative adopted under section 422 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17082).

(h) Implementation of Labeling Program-

(1) IN GENERAL- The Administrator, in consultation with the Secretary of Energy, shall work with all State Energy Offices established pursuant to part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.) or other State authorities as necessary for the purpose of implementing the labeling program established under this section for commercial and residential buildings.

(2) OUTREACH TO LOCAL AUTHORITIES- The Administrator shall, acting in consultation and coordination with the respective States, encourage use of the labeling program by counties and other localities to broaden access to information about building energy use, for example, through disclosure of building label contents in tax, title, and other records those localities maintain. For this purpose, the Administrator shall develop an electronic version of the label and information that can be readily transmitted and read in widely-available computer programs but is protected from unauthorized manipulation.

(3) MEANS OF IMPLEMENTATION- In adopting the model labeling program established under this section, a State shall seek to ensure that labeled information be made accessible to the public in a manner so that owners, lenders, tenants, occupants, or other relevant parties can utilize it. Such accessibility may be accomplished through--

(A) preparation, and public disclosure of the label through filing with tax and title records at the time of--

(i) a building audit conducted with support from Federal or State funds;

(ii) a building energy-efficiency retrofit conducted in response to such an audit;

(iii) a final inspection of major renovations or additions made to a building in accordance with a building permit issued by a local government entity;

(iv) a sale that is recorded for title and tax purposes consistent with paragraph (8);

(v) a new lien recorded on the property for more than a set percentage of the assessed value of the property, if that lien reflects public financial assistance for energy-related improvements to that building; or

(vi) a change in ownership or operation of the building for purposes of utility billing; or

(B) other appropriate means.

(4) STATE IMPLEMENTATION OF PROGRAM-

(A) ELIGIBILITY- A State may become eligible to utilize allowance value to implement this program by--

(i) adopting by statute or regulation a requirement that buildings be assessed and labeled, consistent with the labeling requirements of the program established under this section; or

(ii) adopting a plan to implement a model labeling program consistent with this section within 1 year of enactment of this Act, including the establishment of that program within 3 years after the date of enactment of this Act, and demonstrating continuous progress under that plan.

(B) USE OF ALLOWANCES- Direct Federal support for the program established in this section is provided through the emission allowances allocated to the States' SEED Accounts pursuant to section 132 of this Act. To the extent that a State provides allowances to local governments within the State to implement this program, that shall be deemed a distribution of such allowances to units of local government pursuant to subsection (c)(1) of that section.

(5) GUIDANCE- The Administrator may create or identify model programs and resources to provide guidance to offer to States and localities for creating labeling programs consistent with the model program established under this section.

(6) PROGRESS REPORT- The Administrator, in consultation with the Secretary of Energy, shall provide a progress report to Congress not later than 3 years after the date of enactment of this Act that--

(A) evaluates the effectiveness of efforts to advance use of the model labeling program by States and localities;

(B) recommends any legislative changes necessary to broaden the use of the model labeling program; and

(C) identifies any changes to broaden the use of the model labeling program that the Administrator has made or intends to make that do not require additional legislative authority.

(7) STATE INFORMATION- The Administrator may require States to report to the Administrator information that the Administrator requires to provide the report required under paragraph (6).

(8) PREVENTION OF DISRUPTION OF SALES TRANSACTIONS- No State shall implement a new labeling program pursuant to this section in a manner that

requires the labeling of a building to occur after a contract has been executed for the sale of that building and before the sales transaction is completed.

(i) Implementation of Labeling Program in Federal Buildings-

(1) USE OF LABELING PROGRAM- The Secretary of Energy and the Administrator shall use the labeling program established under this section to evaluate energy performance in the facilities of the Department of Energy and the Environmental Protection Agency, respectively, to the extent practicable, and shall encourage and support implementation efforts in other Federal agencies.

(2) ANNUAL PROGRESS REPORT- The Secretary of Energy and Administrator shall provide an annual progress report to Congress and the Office of Management and Budget detailing efforts to implement this subsection, as well as any best practices or needed resources identified as a result of such efforts.

(j) Public Outreach- The Secretary of Energy and the Administrator, in consultation with nonprofit and industry stakeholders with specialized expertise, and in conjunction with other energy efficiency public awareness efforts, shall establish a business and consumer education program to increase awareness about the importance of building energy efficiency and to facilitate widespread use of the labeling program established under this section.

(k) Definitions- In this section:

(1) BUILDING TYPE- The term `building type' means a grouping of buildings as identified by their principal building activities, or as grouped by their use, including office buildings, laboratories, libraries, data centers, retail establishments, hotels, warehouses, and educational buildings.

(2) MEASUREMENT PROTOCOL- The term `measurement protocol' means the methodology, prescribed by the Administrator, for defining a benchmark for building energy performance for a specific building type and for measuring that performance against the benchmark.

(3) ACHIEVED PERFORMANCE- The term `achieved performance' means the actual energy consumption of a building as compared to a baseline building of the same type and size, determined by actual consumption data normalized for appropriate variables.

(4) DESIGNED PERFORMANCE- The term `designed performance' means the energy consumption performance a building would achieve if operated consistent with its design intent for building energy use, utilizing a standardized set of operational conditions informed by data collected or confirmed during an energy audit.

(l) Authorization of Appropriations- There are authorized to be appropriated--

(1) to the Administrator \$50,000,000 for implementation of this section for each fiscal year from 2010 through 2020; and

(2) to the Secretary of Energy \$20,000,000 for implementation of this section for fiscal year 2010 and \$10,000,000 for fiscal years 2011 through 2020.

(m) New Construction- This section shall apply only to construction beginning after the date of enactment of this Act.

## **SEC. 205. TREE PLANTING PROGRAMS.**

(a) Findings- The Congress finds that--

(1) the utility sector is the largest single source of greenhouse gas emissions in the United States today, producing approximately one-third of the country's emissions;

(2) heating and cooling homes accounts for nearly 60 percent of residential electricity usage in the United States;

(3) shade trees planted in strategic locations can reduce residential cooling costs by as much as 30 percent;

(4) shade trees have significant clean-air benefits associated with them;

(5) every 100 healthy large trees removes about 300 pounds of air pollution (including particulate matter and ozone) and about 15 tons of carbon dioxide from the air each year;

(6) tree cover on private property and on newly-developed land has declined since the 1970s, even while emissions from transportation and industry have been rising; and

(7) in over a dozen test cities across the United States, increasing urban tree cover has generated between two and five dollars in savings for every dollar invested in such tree planting.

(b) Definitions- As used in this section:

(1) The term `Secretary' refers to the Secretary of Energy.

(2) The term `retail power provider' means any entity authorized under applicable State or Federal law to generate, distribute, or provide retail electricity, natural gas, or fuel oil service.

(3) The term `tree-planting organization' means any nonprofit or not-for-profit group which exists, in whole or in part, to--

(A) expand urban and residential tree cover;

(B) distribute trees for planting;

(C) increase awareness of the environmental and energy-related benefits of trees;

(D) educate the public about proper tree planting, care, and maintenance strategies; or

(E) carry out any combination of the foregoing activities.

(4) The term `tree-siting guidelines' means a comprehensive list of science-based measurements outlining the species and minimum distance required between trees planted pursuant to this section, in addition to the minimum required distance to be maintained between such trees and--

(A) building foundations;

(B) air conditioning units;

(C) driveways and walkways;

(D) property fences;

(E) preexisting utility infrastructure;

(F) septic systems;

(G) swimming pools; and

(H) other infrastructure as deemed appropriate.

(5) The terms `small office', `small office buildings', and `small office settings' means nonresidential buildings or structures zoned for business purposes that are 20,000 square feet or less in total area.

(c) Purposes- The purpose of this section is to establish a grant program to assist retail power providers with the establishment and operation of targeted tree-planting programs in residential and small office settings, for the following purposes:

(1) Reducing the peak-load demand for electricity from residences and small office buildings during the summer months through direct shading of buildings provided by strategically planted trees.

(2) Reducing wintertime demand for energy from residences and small office buildings by blocking cold winds from reaching such structures, which lowers interior temperatures and drives heating demand.

(3) Protecting public health by removing harmful pollution from the air.

(4) Utilizing the natural photosynthetic and transpiration process of trees to lower ambient temperatures and absorb carbon dioxide, thus mitigating the effects of climate change.

(5) Lowering electric bills for residential and small office ratepayers by limiting electricity consumption without reducing benefits.

(6) Relieving financial and demand pressure on retail power providers that stems from large peak-load energy demand.

(7) Protecting water quality and public health by reducing stormwater runoff and keeping harmful pollutants from entering waterways.

(8) Ensuring that trees are planted in locations that limit the amount of public money needed to maintain public and electric infrastructure.

(d) General Authority-

(1) ASSISTANCE- The Secretary is authorized to provide financial, technical, and related assistance to retail power providers to assist with the establishment of new, or continued operation of existing, targeted tree-planting programs for residences and small office buildings.

(2) PUBLIC RECOGNITION INITIATIVE- In carrying out the authority provided under this section, the Secretary shall also create a national public recognition initiative to encourage participation in tree-planting programs by retail power providers.

(3) ELIGIBILITY- Only those programs which utilize targeted, strategic tree-siting guidelines to plant trees in relation to building location, sunlight, and prevailing wind direction shall be eligible for assistance under this section.

(4) REQUIREMENTS- In order to qualify for assistance under this section, a tree-planting program shall meet each of the following requirements:

(A) The program shall provide free or discounted shade-providing or wind-reducing trees to residential and small office consumers interested in lowering their home energy costs.

(B) The program shall optimize the electricity-consumption reduction benefit of each tree by planting in strategic locations around a given residence or small office.

(C) The program shall either--

(i) provide maximum amounts of shade during summer intervals when residences and small offices are exposed to the most sun intensity; or

(ii) provide maximum amounts of wind protection during fall and winter intervals when residences and small offices are exposed to the most wind intensity.

(D) The program shall use the best available science to create tree siting guidelines which dictate where the optimum tree species are best planted in locations that achieve maximum reductions in consumer energy demand while causing the least disruption to public infrastructure, considering overhead and underground facilities.

(E) The program shall receive certification from the Secretary that it is designed to achieve the goals set forth in subparagraphs (A) through (D). In designating criteria for such certification, the Secretary shall collaborate with the United States Forest Service's Urban and Community Forestry Program to ensure that certification requirements are consistent with such above goals.

(5) NEW PROGRAM FUNDING SHARE- The Secretary shall ensure that no less than 30 percent of the funds made available under this section are distributed to retail power providers which--

(A) have not previously established or operated qualified tree-planting programs; or

(B) are operating qualified tree-planting programs which were established no more than 3 years prior to the date of enactment of this section.

(e) Agreements Between Electricity Providers and Tree-planting Organizations-

(1) GRANT AUTHORIZATION- In providing assistance under this section, the Secretary is authorized to award grants only to retail power providers that have entered into binding legal agreements with nonprofit tree-planting organizations.

(2) CONDITIONS OF AGREEMENT- Those agreements between retail power providers and tree-planting organizations shall set forth conditions under which nonprofit tree-planting organizations shall provide targeted tree-planting programs which may require these organizations to--

(A) participate in local technical advisory committees responsible for drafting general tree-siting guidelines and choosing the most effective species of trees to plant in given locations;

(B) coordinate volunteer recruitment to assist with the physical act of planting trees in residential locations;

(C) undertake public awareness campaigns to educate local residents about the benefits, cost savings, and availability of free shade trees;

(D) establish education and information campaigns to encourage recipients to maintain their shade trees over the long term;

(E) serve as the point of contact for existing and potential residential participants who have questions or concerns regarding the tree-planting program;

(F) require tree recipients to sign agreements committing to voluntary stewardship and care of provided trees;

(G) monitor and report on the survival, growth, overall health, and estimated energy savings of provided trees up until the end of their establishment period which shall be no less than 5 years; and

(H) ensure that trees planted near existing power lines will not interfere with energized electricity distribution lines when mature, and that no new trees will be planted under or adjacent to high-voltage electric transmission lines without prior consultation with the applicable retail power provider receiving assistance under this section.

(3) LACK OF NONPROFIT ORGANIZATION- If qualified nonprofit or not-for-profit tree planting organizations do not exist or operate within areas served by retail power providers applying for assistance under this section, the requirements of this section shall apply to binding legal agreements entered into by such retail power providers and one of the following entities:

(A) Local municipal governments with jurisdiction over the urban or suburban forest.

(B) The State Forester for the State in which the tree planting program will operate.

(C) The United States Forest Service's Urban and Community Forestry representative for the State in which the tree-planting program will operate.

(D) A landscaping services company that is--

(i) identified in consultation with a national or State nonprofit or not-for-profit tree-planting organization;

(ii) licensed to operate in the State in which the tree-planting program will operate; and

(iii) a business as defined by the United States Census Bureau's 2007 North American Industry Classification System Code 561730.

(f) Technical Advisory Committees-

(1) DESCRIPTION- In order to qualify for assistance under this section, the retail power provider shall establish and consult with a local technical advisory committee which shall provide advice and consultation to the program, and may--

(A) design and adopt an approved plant list that emphasizes the use of hardy, noninvasive tree species and, where geographically appropriate, the use of native, or site-adapted, or low water-use shade trees;

(B) design and adopt planting, installation, and maintenance specifications and create a process for inspection and quality control;

(C) ensure that tree recipients are educated to care for and maintain their trees over the long term;

(D) help the public become more engaged and educated in the planting and care of shade trees;

(E) prioritize which sites receive trees, giving preference to locations with the most potential for energy conservation and secondary preference to areas where the average annual income is below the regional median; and

(F) assist with monitoring and collection of data on tree health, tree survival, and energy conservation benefits generated under this section.

(2) COMPENSATION- Individuals serving on local technical advisory committees shall not receive compensation for their service.

(3) COMPOSITION- Local technical advisory committees shall be composed of representatives from public, private, and nongovernmental agencies with expertise in demand-side energy efficiency management, urban forestry, or arboriculture, and shall be composed of the following:

(A) Up to 4 persons, but no less than one person, representing the retail power provider receiving assistance under this section.

(B) Up to 4 persons, but no less than one person, representing the local tree-planting organization which will partner with the retail power provider to carry out this section.

(C) Up to 3 persons representing local nonprofit conservation or environmental organizations. Preference shall be given to those entities which are organized under section 501(c)(3) of the Internal Revenue Code of 1986, and which have demonstrated expertise engaging the public in energy conservation, energy efficiency, or green building practices or a combination thereof, such that no single organization is represented by more than one individual under this paragraph.

(D) Up to 2 persons representing a local affordable housing agency, affordable housing builder, or community development corporation.

(E) Up to 3, but no less than one, persons representing local city or county government for each municipality where a shade tree-planting program will take place; at least one of these representatives shall be the city or county forester, city or county arborist, or functional equivalent.

(F) Up to one person representing the local government agency responsible for management of roads, sewers, and infrastructure, including but not limited to public works departments, transportation agencies, or equivalents.

(G) Up to 3 persons representing the nursery and landscaping industry.

(H) Up to 3 persons representing the research community or academia with expertise in natural resources or energy management issues.

(4) CHAIRPERSON- Each local technical advisory committee shall elect a chairperson to preside over Committee meetings, act as a liaison to governmental and other outside entities, and direct the general operation of the committee; only committee representatives from paragraph (3)(A) or paragraph (3)(B) of this subsection shall be eligible to act as local technical advisory committee chairpersons.

(5) CREDENTIALS- At least one of the members of each local technical advisory committee shall be certified with one or more of the following credentials: International Society of Arboriculture; Certified Arborist, ISA; Certified Arborist Municipal Specialist, ISA; Certified Arborist Utility Specialist,

ISA; Board Certified Master Arborist; or Registered Landscape Architect recommended by the American Society of Landscape Architects.

(g) Cost-share Program-

(1) FEDERAL SHARE- The Federal share of support for projects funded under this section shall not exceed 50 percent of the cost of such project and shall be provided on a matching basis.

(2) NON-FEDERAL SHARE- The non-Federal share of such costs may be paid or contributed by any governmental or nongovernmental entity other than from funds derived directly or indirectly from an agency or instrumentality of the United States.

(h) Rulemaking-

(1) RULEMAKING PERIOD- The Secretary shall be authorized to solicit comments and initiate a rulemaking period that shall last no more than 6 months after the date of enactment of this section.

(2) COMPETITIVE GRANT RULE- At the conclusion of the rulemaking period under paragraph (1), the Secretary shall promulgate a rule governing a public, competitive grants process through which retail power providers may apply for Federal support under this section.

(i) Nonduplicity- Nothing in this section shall be construed to supersede, duplicate, cancel, or negate the programs or authorities provided under section 9 of the Cooperative Forestry Assistance Act of 1978 (92 Stat. 369; Public Law 95-313; 16 U.S.C. 2105).

(j) Authorization of Appropriations- There are hereby authorized to be appropriated such sums as may be necessary for the implementation of this section.

## **SEC. 206. ENERGY EFFICIENCY FOR DATA CENTER BUILDINGS.**

Section 453(c)(1) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17112(c)(1)) is amended by inserting `but not later than 2 years after the date of enactment of this Act' after `described in subsection (b)'.

## **SEC. 207. COMMUNITY BUILDING CODE ADMINISTRATION GRANTS.**

(a) Grant Program Authorized-

(1) GRANT AUTHORIZATION- The Secretary of Housing and Urban Development shall to the extent amounts are made available for grants under this section provide grants to local building code enforcement departments.

(2) COMPETITIVE AWARDS- The Secretary shall award grants under paragraph (1) on a competitive basis taking into consideration the following:

(A) The financial need of each building code enforcement department.

(B) The benefit to the jurisdiction of having an adequately funded building code enforcement department.

(C) The demonstrated ability of each building code enforcement department to work cooperatively with other local code enforcement offices, health departments, and local prosecutorial agencies.

(3) MAXIMUM AMOUNT- The maximum amount of any grant awarded under this subsection shall not exceed \$1,000,000.

(4) COORDINATION- The Secretary of Housing and Urban Development shall coordinate with the Secretary of Energy to ensure that any unnecessarily duplicative funding through grants under this section of activities otherwise funded through the Department of Energy is minimized or eliminated.

(b) Required Elements in Grant Proposals- In order to be eligible for a grant under subsection (a), a building code enforcement department of a jurisdiction shall submit to the Secretary the following:

(1) A demonstration of the jurisdiction's needs in executing building code enforcement administration.

(2) A plan for the use of any funds received from a grant under this section that addresses the needs discussed in paragraph (1) and that is consistent with the authorized uses established in subsection (c).

(3) A plan for local governmental actions to be taken to establish and sustain local building code enforcement administration functions, without continuing Federal support, at a level at least equivalent to that proposed in the grant application.

(4) A plan to create and maintain a program of public outreach that includes a regularly updated and readily accessible means of public communication, interaction, and reporting regarding the services and work of the building code enforcement department to be supported by the grant.

(5) A plan for ensuring the timely and effective administrative enforcement of building safety and fire prevention violations.

(c) Use of Funds; Matching Funds-

(1) AUTHORIZED USES- Amounts from grants awarded under subsection (a) may be used by the grant recipient to supplement existing State or local funding for administration of building code enforcement, or to supplement allowance value received pursuant to this Act for implementation and enforcement of energy efficiency building codes. Such amounts may be used to increase staffing, provide staff training, increase staff competence and professional qualifications, or support individual certification or departmental accreditation, or for capital expenditures specifically dedicated to the administration of the building code enforcement department.

(2) ADDITIONAL REQUIREMENT- Each building code enforcement department receiving a grant under subsection (a) shall empanel a code administration and enforcement team consisting of at least 1 full-time building code enforcement officer, a city planner, and a health planner or similar officer.

(3) MATCHING FUNDS REQUIRED-

(A) IN GENERAL- To be eligible to receive a grant under this section, a building code enforcement department shall provide matching, non-Federal funds in the following amount:

(i) In the case of a building code enforcement department serving an area with a population of more than 50,000, an amount equal to not less than 50 percent of the total amount of any grant to be awarded under this section.

(ii) In the case of a building code enforcement department serving an area with a population of between 20,001 and 50,000, an amount equal to not less than 25 percent of the total amount of any grant to be awarded under this section.

(iii) In the case of a building code enforcement department serving an area with a population of less than 20,000, an amount equal to not less than 12.5 percent of the total amount of any grant to be awarded under this section.

(B) ECONOMIC DISTRESS-

(i) IN GENERAL- The Secretary may waive the matching fund requirements under subparagraph (A), and institute, by regulation, new matching fund requirements based upon the level of economic distress of the jurisdiction in which the local building code enforcement department seeking such grant is located.

(ii) CONTENT OF REGULATIONS- Any regulations instituted under clause (i) shall include--

(I) a method that allows for a comparison of the degree of economic distress among the local jurisdictions of grant applicants, as measured by the differences in the extent of growth lag, the extent of poverty, and the adjusted age of housing in such jurisdiction; and

(II) any other factor determined to be relevant by the Secretary in assessing the comparative degree of economic distress among such jurisdictions.

(4) IN-KIND CONTRIBUTIONS- In determining the non-Federal share required to be provided under paragraph (3), the Secretary shall consider in-kind contributions, not to exceed 50 percent of the amount that the department contributes in non-Federal funds.

(5) WAIVER OF MATCHING REQUIREMENT- The Secretary shall waive the matching fund requirements under paragraph (3) for any recipient jurisdiction that has dedicated all building code permitting fees to the conduct of local building code enforcement.

(d) Evaluation and Report-

(1) IN GENERAL- Grant recipients under this section shall--

(A) be obligated to fully account and report for the use of all grants funds; and

(B) provide a report to the Secretary on the effectiveness of the program undertaken by the grantee and any other criteria requested by the Secretary for the purpose of indicating the effectiveness of, and ideas for, refinement of the grant program.

(2) REPORT- The report required under paragraph (1)(B) shall include a discussion of--

(A) the specific capabilities and functions in local building code enforcement administration that were addressed using funds received under this section;

(B) the lessons learned in carrying out the plans supported by the grant; and

(C) the manner in which the programs supported by the grant are to be maintained by the grantee.

(3) CONTENT OF REPORTS- The Secretary shall--

(A) require each recipient of a grant under this section to file interim and final reports under paragraph (2) to ensure that grant funds are being used as intended and to measure the effectiveness and benefits of the grant program; and

(B) develop and maintain a means whereby the public can access such reports, at no cost, via the Internet.

(e) Definitions- For purposes of this section, the following definitions shall apply:

(1) BUILDING CODE ENFORCEMENT- The term `building code enforcement' means the enforcement of any code, adopted by a State or local government, that regulates the construction of buildings and facilities to mitigate hazards to life or property. Such term includes building codes, electrical codes, energy codes, fire codes, fuel gas codes, mechanical codes, and plumbing codes.

(2) BUILDING CODE ENFORCEMENT DEPARTMENT- The term `building code enforcement department' means an inspection or enforcement agency of a jurisdiction that is responsible for conducting building code enforcement.

(3) JURISDICTION- The term `jurisdiction' means a city, county, parish, city and county authority, or city and parish authority having local authority to enforce building codes and regulations and to collect fees for building permits.

(4) SECRETARY- The term `Secretary' means the Secretary of Housing and Urban Development.

(f) Authorization of Appropriations-

(1) IN GENERAL- There are authorized to be appropriated \$20,000,000 for each of fiscal years 2010 through 2014 to the Secretary of Housing and Urban Development to carry out the provisions of this section.

(2) RESERVATION- From the amount made available under paragraph (1), the Secretary may reserve not more than 5 percent for administrative costs.

(3) AVAILABILITY- Any funds appropriated pursuant to paragraph (1) shall remain available until expended.

## **SEC. 208. SOLAR ENERGY SYSTEMS BUILDING PERMIT REQUIREMENTS FOR RECEIPT OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS.**

Section 104 of the Housing and Community Development Act of 1974 (42 U.S.C. 5304) is amended by adding at the end the following new subsection:

^ (n) Requirements for Building Permits Regarding Solar Energy Systems-

^ (1) IN GENERAL- A grant under section 106 for a fiscal year may be made only if the grantee certifies to the Secretary that--

^ (A) in the case of a grant under section 106(a) for any Indian tribe or insular area, during such fiscal year the cost of any permit or license, for construction or installation of any solar energy system for any structure, that is required by the tribe or insular area or by any other unit of general local government or other political subdivision of such tribe or insular area, complies with paragraph (2);

^ (B) in the case of a grant under section 106(b) for any metropolitan city or urban county, during such fiscal year the cost of any permit or license, for construction or installation of any solar energy system for any structure, that is required by the metropolitan city or urban county, or by any other political subdivision of such city or county, complies with paragraph (2); and

^ (C) in the case of a grant under section 106(d) for any State, during such fiscal year the cost of any permit or license, for construction or installation of any solar energy system for any structure, that is required by the State, or by any other unit of general local government within any nonentitlement area of such State, or other political subdivision within any nonentitlement area of such State or such a unit of general local government, complies with paragraph (2).

^ (2) LIMITATION ON COST- The cost of permit or license for construction or installation of any solar energy system complies with this paragraph only if such cost does not exceed the following amount:

^ (A) RESIDENTIAL STRUCTURES- In the case of a structure primarily for residential use, \$500.

^ (B) NONRESIDENTIAL STRUCTURES- In the case of a structure primarily for nonresidential use, 1.0 percent of the total cost of the

installation or construction of the solar energy system, but not in excess of \$10,000.

^ (3) NONCOMPLIANCE- If the Secretary determines that a grantee of a grant made under section 106 is not in compliance with a certification under paragraph (1)--

^ (A) the Secretary shall notify the grantee of such determination; and

^ (B) if the grantee has not corrected such noncompliance before the expiration of the 6-month period beginning upon notification under subparagraph (A), such grantee shall not be eligible for 5 percent of any amounts awarded under a grant under section 106 for the first fiscal year that commences after the expiration of such 6-month period.

^ (4) SOLAR ENERGY SYSTEM- For purposes of this subsection, the term 'solar energy system' means, with respect to a structure, equipment that uses solar energy to generate electricity for, or to heat or cool (or provide hot water for use in), such structure.'

## **SEC. 209. PROHIBITION OF RESTRICTIONS ON RESIDENTIAL INSTALLATION OF SOLAR ENERGY SYSTEM.**

(a) Regulations- Within 180 days after the enactment of this Act, the Secretary of Housing and Urban Development, in consultation with the Secretary of Energy, shall issue regulations--

(1) to prohibit any private covenant, contract provision, lease provision, homeowners' association rule or bylaw, or similar restriction, that impairs the ability of the owner or lessee of any residential structure designed for occupancy by 1 family to install, construct, maintain, or use a solar energy system on such residential property; and

(2) to require that whenever any such covenant, provision, rule or bylaw, or restriction requires approval for the installation or use of a solar energy system, the application for approval shall be processed and approved by the appropriate approving entity in the same manner as an application for approval of an architectural modification to the property, and shall not be willfully avoided or delayed.

(b) Contents- The regulations required under subsection (a) shall provide that--

(1) such a covenant, provision, rule or bylaw, or restriction impairs the installation, construction, maintenance, or use of a solar energy system if it--

(A) unreasonably delays or prevents installation, maintenance, or use;

(B) unreasonably increases the cost of installation, maintenance, or use; or

(C) precludes use of such a system; and

(2) any fee or cost imposed on the owner or lessee of such a residential structure by such a covenant, provision, rule or bylaw, or restriction shall be considered unreasonable if--

(A) such fee or cost is not reasonable in comparison to the cost of the solar energy system or the value of its use; or

(B) treatment of solar energy systems by the covenant, provision, rule or bylaw, or restriction is not reasonable in comparison with treatment of comparable systems by the same covenant, provision, rule or bylaw, or restriction.

(c) Solar Energy System- For purposes of this section, the term `solar energy system' means, with respect to a structure, equipment that uses solar energy to generate electricity for, or to heat or cool (or provide hot water for use in), such structure.

### **Subtitle B--Lighting and Appliance Energy Efficiency Programs**

## **SEC. 211. LIGHTING EFFICIENCY STANDARDS.**

(a) Outdoor Lighting-

(1) DEFINITIONS-

(A) Section 340(1) of the Energy Policy and Conservation Act (42 U.S.C. 6311(1)) is amended by striking subparagraph (L) and inserting the following:

`(L) Outdoor luminaires.

`(M) Outdoor high light output lamps.

`(N) Any other type of industrial equipment which the Secretary classifies as covered equipment under section 341(b).'

(B) Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended as adding at the end the following:

`(25) The term `luminaire' means a complete lighting unit consisting of one or more light sources and ballast(s), together with parts designed to distribute the light, to position and protect such lamps, and to connect such light sources to the power supply.

`(26) The term `outdoor luminaire' means a luminaire that is listed as suitable for wet locations pursuant to Underwriters Laboratories Inc. standard UL 1598 and is labeled as `Suitable for Wet Locations' consistent with section 410.4(A) of the National Electrical Code 2005, or is designed for roadway illumination and meets the requirements of Addendum A for IESNA TM-15-07: Backlight, Uplight, and Glare (BUG) Ratings, except for--

`(A) luminaires designed for outdoor video display images that cannot be used in general lighting applications;

- ˘ (B) portable luminaires designed for use at construction sites;
- ˘ (C) luminaires designed for continuous immersion in swimming pools and other water features;
- ˘ (D) seasonal luminaires incorporating solely individual lamps rated at 10 watts or less;
- ˘ (E) luminaires designed to be used in emergency conditions that incorporate a means of charging a battery and a device to switch the power supply to emergency lighting loads automatically upon failure of the normal power supply;
- ˘ (F) components used for repair of installed luminaries and that meet the requirements of section 342(h);
- ˘ (G) a luminaire utilizing an electrode-less fluorescent lamp as the light source;
- ˘ (H) decorative gas lighting systems;
- ˘ (I) luminaires designed explicitly for lighting for theatrical purposes, including performance, stage, film production, and video production;
- ˘ (J) luminaires designed as theme elements in theme/amusement parks and that cannot be used in most general lighting applications;
- ˘ (K) luminaires designed explicitly for vehicular roadway tunnels designed to comply with ANSI/IESNA RP-22-05;
- ˘ (L) luminaires designed explicitly for hazardous locations meeting UL Standard 844;
- ˘ (M) searchlights;
- ˘ (N) luminaires that are designed to be recessed into a building, and that cannot be used in most general lighting applications;
- ˘ (O) a luminaire rated only for residential applications utilizing a light source or sources regulated under the amendments made by section 321 of the Energy Independence and Security Act of 2007 and with a light output no greater than 2,600 lumens;
- ˘ (P) a residential pole-mounted luminaire that is not rated for commercial use utilizing a light source or sources meeting the efficiency requirements of section 231 of the Energy Independence and Security Act of 2007 and mounted on a post or pole not taller than 10.5 feet above ground and with a light output not greater than 2,600 lumens;
- ˘ (Q) a residential fixture with E12 (Candelabra) bases that is rated for not more than 300 watts total; or
- ˘ (R) a residential fixture with medium screw bases that is rated for not more than 145 watts.

^ (27) The term ^ outdoor high light output lamp' means a lamp that--

^ (A) has a rated lumen output not less than 2601 lumens;

^ (B) is capable of being operated at a voltage not less than 110 volts and not greater than 300 volts, or driven at a constant current of 6.6 amperes;

^ (C) is not a Parabolic Aluminized Reflector lamp; and

^ (D) is not a J-type double-ended (T-3) halogen quartz lamp, utilizing R-7S bases, that is manufactured before January 1, 2015.

^ (28) The term ^ outdoor lighting control' means a device incorporated in a luminaire that receives a signal, from either a sensor (such as an occupancy sensor, motion sensor, or daylight sensor) or an input signal (including analog or digital signals communicated through wired or wireless technology), and can adjust the light level according to the signal.'.

(2) STANDARDS- Section 342 of the Energy Policy and Conservation Act (42 U.S.C. 6313) is amended by adding at the end the following:

^ (g) Outdoor Luminaires-

^ (1) Each outdoor luminaire manufactured on or after January 1, 2016, shall-

^ (A) have an initial luminaire efficacy of at least 50 lumens per watt; and

^ (B) be designed to use a light source with a lumen maintenance, calculated as mean rated lumens divided by initial lumens, of at least 0.6.

^ (2) Each outdoor luminaire manufactured on or after January 1, 2018, shall-

^ (A) have an initial luminaire efficacy of at least 70 lumens per watt; and

^ (B) be designed to use a light source with a lumen maintenance, calculated as mean rated lumens divided by initial lumens, of at least 0.6.

^ (3) In addition to the requirements of paragraphs (1) through (3), each outdoor luminaire manufactured on or after January 1, 2016, shall have the capability of producing at least two different light levels, including 100 percent and 60 percent of full lamp output as tested with the maximum rated lamp per UL1598 or the manufacturer's maximum specified for the luminaire under test. Outdoor luminaries used for roadway lighting applications shall be exempt the 2 light level requirement.

^ (4)(A) Not later than January 1, 2022, the Secretary shall issue a final rule amending the applicable standards established in paragraph (3) if technologically feasible and economically justified.

^ (B) A final rule issued under subparagraph (A) shall establish efficiency standards at the maximum level that is technically feasible and economically justified, as provided in subsections (o) and (p) of section 325. The Secretary may also, in such rulemaking, amend or discontinue the product exclusions listed in section 340(26)(A) through (P), or amend the lumen maintenance requirements in paragraph (2) if the Secretary determines that such amendments are consistent with the purposes of this Act.

^ (C) If the Secretary issues a final rule under subparagraph (A) establishing amended standards, the final rule shall provide that the amended standards apply to products manufactured on or after January 1, 2025, or 1 year after the date on which the final amended standard is published, whichever is later.

^ (h) Outdoor High Light Output Lamps- Each outdoor high light output lamp manufactured on or after January 1, 2017, shall have a lighting efficiency of at least 45 lumens per watt.'

(3) TEST PROCEDURES- Section 343(a) of the Energy Policy and Conservation Act (42 U.S.C. 6314(a)) is amended by adding at the end the following:

^ (10) OUTDOOR LIGHTING-

^ (A) With respect to outdoor luminaires and outdoor high light output lamps, the test procedures shall be based upon the test procedures specified in illuminating engineering society procedures LM-79 as of March 1, 2009, and LM-31, and/or other appropriate consensus test procedures developed by the Illuminating Engineering Society or other appropriate consensus standards bodies.

^ (B) If illuminating engineering society procedure LM-79 is amended, the Secretary shall amend the test procedures established in subparagraph (A) as necessary to be consistent with the amended LM-79 test procedure, unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures under paragraph (2).

^ (C) The Secretary may revise the test procedures for outdoor luminaires or outdoor high light output lamps by rule consistent with paragraph (2), and may incorporate as appropriate consensus test procedures developed by the Illuminating Engineering Society or other appropriate consensus standards bodies.'

(4) PREEMPTION- Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316) is amended by adding at the end the following:

^ (i)(1) Except as provided in paragraph (2), section 327 shall apply to outdoor luminaires to the same extent and in the same manner as the section applies under part B.

“(2) Any State standard that is adopted on or before January 1, 2015, pursuant to a statutory requirement to adopt efficiency standards for reducing outdoor lighting energy use enacted prior to January 31, 2008, shall not be preempted.”.

(5) ENERGY EFFICIENCY STANDARDS FOR CERTAIN LUMINAIRES- Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall, in consultation with the National Electrical Manufacturers Association, collect data for United States sales of luminaires described in section 340(26) (H) and (M) of the Energy Policy and Conservation Act, to determine the historical growth rate. If the Secretary finds that the growth in market share of such luminaires exceeds twice the year-to-year rate of the average of the previous 3 years, then the Secretary shall within 12 months initiate a rulemaking to determine if such exclusion should be eliminated, if substitute products exist that perform more efficiently and fulfill the performance functions of these luminaires.

(b) Portable Lighting-

(1) PORTABLE LIGHT FIXTURES-

(A) DEFINITIONS- Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended by adding at the end the following:

“(67) ART WORK LIGHT FIXTURE- The term ‘art work light fixture’ means a light fixture designed only to be mounted directly to an art work and for the purpose of illuminating that art work.

“(68) LED LIGHT ENGINE- The term ‘LED light engine’ or ‘LED light engine with integral heat sink’ means a subsystem of an LED light fixture that--

“(A) includes 1 or more LED components, including--

“(i) an LED driver power source with electrical and mechanical interfaces; and

“(ii) an integral heat sink to provide thermal dissipation; and

“(B) may be designed to accept additional components that provide aesthetic, optical, and environmental control.

“(69) LED LIGHT FIXTURE- The term ‘LED light fixture’ means a complete lighting unit consisting of--

“(A) an LED light source with 1 or more LED lamps or LED light engines; and

“(B) parts--

“(i) to distribute the light;

“(ii) to position and protect the light source; and

“(iii) to connect the light source to electrical power.

` (70) LIGHT FIXTURE- The term `light fixture' means a product designed to provide light that includes--

` (A) at least 1 lamp socket; and

` (B) parts--

` (i) to distribute the light;

` (ii) position and protect 1 or more lamps; and

` (iii) to connect 1 or more lamps to a power supply.

` (71) PORTABLE LIGHT FIXTURE-

` (A) IN GENERAL- The term `portable light fixture' means a light fixture that has a flexible cord and an attachment plug for connection to a nominal 120-volt circuit that--

` (i) allows the user to relocate the product without any rewiring; and

` (ii) typically can be controlled with a switch located on the product or the power cord of the product.

` (B) EXCLUSIONS- The term `portable light fixture' does not include--

` (i) direct plug-in night lights, sun or heat lamps, medical or dental lights, portable electric hand lamps, signs or commercial advertising displays, photographic lamps, germicidal lamps, or light fixtures for marine use or for use in hazardous locations (as those terms are defined in ANSI/NFPA 70 of the National Electrical Code); or

` (ii) decorative lighting strings, decorative lighting outfits, or electric candles or candelabra without lamp shades that are covered by Underwriter Laboratories (UL) standard 588, `Seasonal and Holiday Decorative Products'.

(B) COVERAGE-

(i) IN GENERAL- Section 322(a) of the Energy Policy and Conservation Act (42 U.S.C. 6292(a)) is amended--

(I) by redesignating paragraph (20) as paragraph (24); and

(II) by inserting after paragraph (19) the following:

` (20) Portable light fixtures.'

(ii) CONFORMING AMENDMENTS- Section 325(l) of the Energy Policy and Conservation Act (42 U.S.C. 6295(l)) is amended by striking `paragraph (19)' each place it appears in paragraphs (1) and (2) and inserting `paragraph (24)'.

(C) TEST PROCEDURES- Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)) is amended by adding at the end the following:

“(19) LED FIXTURES AND LED LIGHT ENGINES- Test procedures for LED fixtures and LED light engines shall be based on Illuminating Engineering Society of North America (IESNA) test procedure LM-79, Approved Method for Electrical and Photometric Testing of Solid-State Lighting Devices, and IESNA-approved test procedure for testing LED light engines.”.

(D) STANDARDS- Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended--

(i) by redesignating subsection (ii) as subsection (oo);

(ii) in subsection (oo)(2), as redesignated in clause (i) of this subparagraph, by striking “(hh)” each place it appears and inserting “(mm)”; and

(iii) by inserting after subsection (hh) the following:

“(ii) Portable Light Fixtures-

“(1) IN GENERAL- Subject to paragraphs (2) and (3), portable light fixtures manufactured on or after January 1, 2012, shall meet 1 or more of the following requirements:

“(A) Be a fluorescent light fixture that meets the requirements of the Energy Star Program for Residential Light Fixtures, Version 4.2.

“(B) Be equipped with only 1 or more GU-24 line-voltage sockets, not be rated for use with incandescent lamps of any type (as defined in ANSI standards), and meet the requirements of version 4.2 of the Energy Star program for residential light fixtures.

“(C) Be an LED light fixture or a light fixture with an LED light engine and comply with the following minimum requirements:

“(i) Minimum light output: 200 lumens (initial).

“(ii) Minimum LED light engine efficacy: 40 lumens/watt installed in fixtures that meet the minimum light fixture efficacy of 29 lumens/watt or, alternatively, a minimum LED light engine efficacy of 60 lumens/watt for fixtures that do not meet the minimum light fixture efficacy of 29 lumens/watt.

“(iii) All portable fixtures shall have a minimum LED light fixture efficacy of 29 lumens/watt and a minimum LED light engine efficacy of 60 lumens/watt by January 1, 2016.

“(iv) Color Correlated Temperature (CCT): 2700K through 4000K.

“(v) Minimum Color Rendering Index (CRI): 75.

- ˘ (vi) Power factor equal to or greater than 0.70.
- ˘ (vii) Portable luminaries that have internal power supplies shall have zero standby power when the luminaire is turned off.
- ˘ (viii) LED light sources shall deliver at least 70 percent of initial lumens for at least 25,000 hours.
- ˘ (D)(i) Be equipped with an ANSI-designated E12, E17, or E26 screw-based socket and be prepackaged and sold together with 1 screw-based compact fluorescent lamp or screw-based LED lamp for each screw-based socket on the portable light fixture.
- ˘ (ii) The compact fluorescent or LED lamps prepackaged with the light fixture shall be fully compatible with any light fixture controls incorporated into the light fixture (for example, light fixtures with dimmers shall be packed with dimmable lamps).
- ˘ (iii) Compact fluorescent lamps prepackaged with light fixtures shall meet the requirements of the Energy Star Program for CFLs Version 4.0.
- ˘ (iv) Screw-based LED lamps shall comply with the minimum requirements described in subparagraph (C).
- ˘ (E) Be equipped with 1 or more single-ended, non-screw based halogen lamp sockets (line or low voltage), a dimmer control or high-low control, and be rated for a maximum of 100 watts.
- ˘ (2) REVIEW-
  - ˘ (A) REVIEW- The Secretary shall review the criteria and standards established under paragraph (1) to determine if revised standards are technologically feasible and economically justified.
  - ˘ (B) COMPONENTS- The review shall include consideration of--
    - ˘ (i) whether a separate compliance procedure is still needed for halogen fixtures described in subparagraph (E) and, if necessary, what an appropriate standard for halogen fixtures shall be;
    - ˘ (ii) whether the specific technical criteria described in subparagraphs (A), (C), and (D)(iii) should be modified; and
    - ˘ (iii) which fixtures should be exempted from the light fixture efficacy standard as of January 1, 2016, because the fixtures are primarily decorative in nature (as defined by the Secretary) and, even if exempted, are likely to be sold in limited quantities.
  - ˘ (C) TIMING-
    - ˘ (i) DETERMINATION- Not later than January 1, 2014, the Secretary shall publish amended standards, or a determination that no amended standards are justified, under this subsection.

^ (ii) STANDARDS- Any standards under this paragraph shall take effect on January 1, 2016.

^ (3) ART WORK LIGHT FIXTURES- Art work light fixtures manufactured on or after January 1, 2012, shall--

^ (A) comply with paragraph (1); or

^ (B)(i) contain only ANSI-designated E12 screw-based line-voltage sockets;

^ (ii) have not more than 3 sockets;

^ (iii) be controlled with an integral high/low switch;

^ (iv) be rated for not more than 25 watts if fitted with 1 socket; and

^ (v) be rated for not more than 15 watts per socket if fitted with 2 or 3 sockets.

^ (4) EXCEPTION FROM PREEMPTION- Notwithstanding section 327, Federal preemption shall not apply to a regulation concerning portable light fixtures adopted by the California Energy Commission on or before January 1, 2014.'

(2) GU-24 BASE LAMPS-

(A) DEFINITIONS- Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) (as amended by paragraph (1)(A)) is amended by adding at the end the following:

^ (72) GU-24- The term 'GU-24' means the designation of a lamp socket, based on a coding system by the International Electrotechnical Commission, under which--

^ (A) 'G' indicates a holder and socket type with 2 or more projecting contacts, such as pins or posts;

^ (B) 'U' distinguishes between lamp and holder designs of similar type that are not interchangeable due to electrical or mechanical requirements; and

^ (C) 24 indicates the distance in millimeters between the electrical contact posts.

^ (73) GU-24 ADAPTOR-

^ (A) IN GENERAL- The term 'GU-24 Adaptor' means a 1-piece device, pig-tail, wiring harness, or other such socket or base attachment that--

^ (i) connects to a GU-24 socket on 1 end and provides a different type of socket or connection on the other end; and

^ (ii) does not alter the voltage.

^ (B) EXCLUSION- The term `GU-24 Adaptor' does not include a fluorescent ballast with a GU-24 base.

^ (74) GU-24 BASE LAMP- `GU-24 base lamp' means a light bulb designed to fit in a GU-24 socket.'

(B) STANDARDS- Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) (as amended by paragraph (1)(D)) is amended by inserting after subsection (ii) the following:

^ (jj) GU-24 Base Lamps-

^ (1) IN GENERAL- A GU-24 base lamp shall not be an incandescent lamp as defined by ANSI.

^ (2) GU-24 ADAPTORS- GU-24 adaptors shall not adapt a GU-24 socket to any other line voltage socket.'

(3) STANDARDS FOR CERTAIN INCANDESCENT REFLECTOR LAMPS- Section 325(i) of the Energy Policy and Conservation Act (42 U.S.C. 6295(i)), as amended by section 161(a)(12) of this Act, is amended by adding at the end the following:

^ (9) CERTAIN INCANDESCENT REFLECTOR LAMPS- (A) No later than 12 months after enactment of this paragraph, the Secretary shall publish a final rule establishing standards for incandescent reflector lamp types described in paragraph (1)(D). Such standards shall be effective on July 1, 2013.

^ (B) Any rulemaking for incandescent reflector lamps completed after enactment of this section shall consider standards for all incandescent reflector lamps, inclusive of those specified in paragraph (1)(C).

^ (10) REFLECTOR LAMPS- No later than January 1, 2015, the Secretary shall publish a final rule establishing and amending standards for reflector lamps, including incandescent reflector lamps. Such standards shall be effective no sooner than 3 years after publication of the final rule. Such rulemaking shall consider incandescent and nonincandescent technologies. Such rulemaking shall consider a new metric other than lumens-per-watt based on the photometric distribution of light from such lamps.'

## **SEC. 212. OTHER APPLIANCE EFFICIENCY STANDARDS.**

(a) Standards for Water Dispensers, Hot Food Holding Cabinets, and Portable Electric Spas-

(1) DEFINITIONS- Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291), as amended by section 211 of this Act, is further amended by adding at the end the following:

^ (75) The term `water dispenser' means a factory-made assembly that mechanically cools and heats potable water and that dispenses the cooled or heated water by integral or remote means.

^ (76) The term `bottle-type water dispenser' means a drinking water dispenser designed for dispensing both hot and cold water that uses a removable bottle or container as the source of potable water.

^ (77) The term `commercial hot food holding cabinet' means a heated, fully-enclosed compartment with one or more solid or glass doors that is designed to maintain the temperature of hot food that has been cooked in a separate appliance. Such term does not include heated glass merchandising cabinets, drawer warmers, commercial hot food holding cabinets with interior volumes of less than 8 cubic feet, or cook-and-hold appliances.

^ (78) The term `portable electric spa' means a factory-built electric spa or hot tub, supplied with equipment for heating and circulating water.'

(2) COVERAGE- Section 322(a) of the Energy Policy and Conservation Act (42 U.S.C. 6292(a)), as amended by section 211(b)(1)(B) of this Act, is further amended by inserting after paragraph (20) the following new paragraphs:

^ (21) Bottle type water dispensers.

^ (22) Commercial hot food holding cabinets.

^ (23) Portable electric spas.'

(3) TEST PROCEDURES- Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)), as amended by section 211(b)(1)(C) of this Act, is further amended by adding at the end the following:

^ (20) BOTTLE TYPE WATER DISPENSERS- Test procedures for bottle type water dispensers shall be based on `Energy Star Program Requirements for Bottled Water Coolers version 1.1' published by the Environmental Protection Agency. Units with an integral, automatic timer shall not be tested using section 4D, `Timer Usage,' of the test criteria.

^ (21) COMMERCIAL HOT FOOD HOLDING CABINETS- Test procedures for commercial hot food holding cabinets shall be based on the test procedures described in ANSI/ASTM F2140-01 (Test for idle energy rate-dry test). Interior volume shall be based on the method shown in the Environmental Protection Agency's `Energy Star Program Requirements for Commercial Hot Food Holding Cabinets' as in effect on August 15, 2003.

^ (22) PORTABLE ELECTRIC SPAS- Test procedures for portable electric spas shall be based on the test method for portable electric spas contained in section 1604, title 20, California Code of Regulations as amended on December 3, 2008. When the American National Standards Institute publishes a test procedure for portable electric spas, the Secretary shall revise the Department of Energy's procedure.'

(4) STANDARDS- Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295), as amended by section 211 of this Act, is further amended by adding after subsection (jj) the following:

^ (kk) Bottle Type Water Dispensers- Effective January 1, 2012, bottle-type water dispensers designed for dispensing both hot and cold water shall not have standby energy consumption greater than 1.2 kilowatt-hours per day.

^ (ll) Commercial Hot Food Holding Cabinets- Effective January 1, 2012, commercial hot food holding cabinets with interior volumes of 8 cubic feet or greater shall have a maximum idle energy rate of 40 watts per cubic foot of interior volume.

^ (mm) Portable Electric Spas- Effective January 1, 2012, portable electric spas shall not have a normalized standby power greater than  $5(V^{2/3})$  Watts where V=the fill volume in gallons.

^ (nn) Revisions- The Secretary of Energy shall consider revisions to the standards in subsections (kk), (ll), and (mm) in accordance with subsection (o) and publish a final rule no later than January 1, 2013 establishing such revised standards, or make a finding that no revisions are technically feasible and economically justified. Any such revised standards shall take effect January 1, 2016.'

(b) Commercial Furnace Efficiency Standards- Section 342(a) of the Energy Policy and Conservation Act (42 U.S.C. 6312(a)) is amended by inserting after paragraph (10) the following new paragraph:

^ (11) WARM AIR FURNACES- Each warm air furnace with an input rating of 225,000 Btu per hour or more and manufactured after January 1, 2011, shall meet the following standard levels:

^ (A) GAS-FIRED UNITS-

^ (i) Minimum thermal efficiency of 80 percent.

^ (ii) Include an interrupted or intermittent ignition device.

^ (iii) Have jacket losses not exceeding 0.75 percent of the input rating.

^ (iv) Have either power venting or a flue damper.

^ (B) OIL-FIRED UNITS-

^ (i) Minimum thermal efficiency of 81 percent.

^ (ii) Have jacket losses not exceeding 0.75 percent of the input rating.

^ (iii) Have either power venting or a flue damper.'

## **SEC. 213. APPLIANCE EFFICIENCY DETERMINATIONS AND PROCEDURES.**

(a) Definition of Energy Conservation Standard- Section 321(6) of the Energy Policy and Conservation Act (42 U.S.C. 6291(6)) is amended to read as follows:

^ (6) ENERGY CONSERVATION STANDARD-

` (A) IN GENERAL- The term `energy conservation standard' means 1 or more performance standards that--

` (i) for covered products (excluding clothes washers, dishwashers, showerheads, faucets, water closets, and urinals), prescribe a minimum level of energy efficiency or a maximum quantity of energy use, determined in accordance with test procedures prescribed under section 323;

` (ii) for showerheads, faucets, water closets, and urinals, prescribe a minimum level of water efficiency or a maximum quantity of water use, determined in accordance with test procedures prescribed under section 323; and

` (iii) for clothes washers and dishwashers--

` (I) prescribe a minimum level of energy efficiency or a maximum quantity of energy use, determined in accordance with test procedures prescribed under section 323; and

` (II) may include a minimum level of water efficiency or a maximum quantity of water use, determined in accordance with those test procedures.

` (B) INCLUSIONS- The term `energy conservation standard' includes--

` (i) 1 or more design requirements, if the requirements were established--

` (I) on or before the date of enactment of this subclause;

` (II) as part of a direct final rule under section 325(p)(4); or

` (III) as part of a final rule published on or after January 1, 2012, and

` (ii) any other requirements that the Secretary may prescribe under section 325(r).

` (C) EXCLUSION- The term `energy conservation standard' does not include a performance standard for a component of a finished covered product, unless regulation of the component is specifically authorized or established pursuant to this title.'

(b) Adopting Consensus Test Procedures and Test Procedures in Use Elsewhere- Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)), as amended by sections 211 and 212 of this Act, is further amended by adding the following new paragraph after paragraph (22):

` (23) CONSENSUS AND ALTERNATE TEST PROCEDURES-

` (A) RECEIPT OF JOINT RECOMMENDATION OR ALTERNATE TESTING PROCEDURE- On receipt of--

- ˆ (i) a statement that is submitted jointly by interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of covered products, States, and efficiency advocates), as determined by the Secretary, and contains recommendations with respect to the testing procedure for a covered product; or
- ˆ (ii) a submission of a testing procedure currently in use for a covered product by a State, nation, or group of nations--
  - ˆ (I) if the Secretary determines that the recommended testing procedure contained in the statement or submission is in accordance with subsection (b)(3), the Secretary may issue a final rule that establishes an energy or water conservation testing procedure that is published simultaneously with a notice of proposed rulemaking that proposes a new or amended energy or water conservation testing procedure that is identical to the testing procedure established in the final rule to establish the recommended testing procedure (referred to in this paragraph as a ˆ direct final rule'); or
  - ˆ (II) if the Secretary determines that a direct final rule cannot be issued based on the statement or submission, the Secretary shall publish a notice of the determination, together with an explanation of the reasons for the determination.
- ˆ (B) PUBLIC COMMENT- The Secretary shall solicit public comment for a period of at least 110 days with respect to each direct final rule issued by the Secretary under subparagraph (A)(ii)(I).
- ˆ (C) WITHDRAWAL OF DIRECT FINAL RULES-
  - ˆ (i) IN GENERAL- Not later than 120 days after the date on which a direct final rule issued under subparagraph (A)(ii)(I) is published in the Federal Register, the Secretary shall withdraw the direct final rule if--
    - ˆ (I) the Secretary receives 1 or more adverse public comments relating to the direct final rule under subparagraph (B) or any alternative joint recommendation; and
    - ˆ (II) based on the rulemaking record relating to the direct final rule, the Secretary determines that such adverse public comments or alternative joint recommendation may provide a reasonable basis for withdrawing the direct final rule under paragraph (3) or any other applicable law.
  - ˆ (ii) ACTION ON WITHDRAWAL- On withdrawal of a direct final rule under clause (i), the Secretary shall--

^ (I) proceed with the notice of proposed rulemaking published simultaneously with the direct final rule as described in subparagraph (A)(ii)(I); and

^ (II) publish in the Federal Register the reasons why the direct final rule was withdrawn.

^ (iii) TREATMENT OF WITHDRAWN DIRECT FINAL RULES- A direct final rule that is withdrawn under clause (i) shall not be considered to be a final rule for purposes of subsection (b).

^ (D) EFFECT OF PARAGRAPH- Nothing in this paragraph authorizes the Secretary to issue a direct final rule based solely on receipt of more than 1 statement containing recommended test procedures relating to the direct final rule.'

(c) Updating Television Test Methods- Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)), as amended by sections 211 and 212 of this Act, and subsection (b) of this section, is further amended by adding at the end the following new paragraph:

^ (24) TELEVISIONS- (A) On the date of enactment of this paragraph, Appendix H to Subpart B of Part 430 of the United States Code of Federal Regulations, ^ Uniform Test Method for Measuring the Energy Consumption of Television Sets', is repealed.

^ (B) No later than 12 months after the date of enactment of this paragraph the Secretary shall publish in the Federal Register a final rule prescribing a new test method for televisions.'

(d) Criteria for Prescribing New or Amended Standards- (1) Section 325(o)(2)(B)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6295(o)(2)(B)(i)) is amended as follows:

(A) By striking ^ and' at the end of subclause (VI).

(B) By redesignating subclause (VII) as subclause (XI).

(C) By inserting the following new subclauses after subclause (VI):

^ (VII) the estimated value of the carbon dioxide and other emission reductions that will be achieved by virtue of the higher energy efficiency of the covered products resulting from the imposition of the standard;

^ (VIII) the estimated impact of standards for a particular product on average consumer energy prices;

^ (IX) the increased energy efficiency that may be attributable to the installation of Smart Grid technologies or capabilities in the covered products, if applicable in the determination of the Secretary;

^ (X) the availability in the United States or in other nations of examples or prototypes of covered products that achieve significantly higher efficiency standards for energy or for water; and'

(2) Section 325(o)(2)(B)(iii) of such Act is amended as follows:

(A) By striking `three' and inserting `5'.

(B) By inserting after the first sentence the following `For products with an average expected useful life of less than 5 years, such rebuttable presumption shall be determined utilizing 75 percent of the product's average expected useful life as a multiplier instead of 5.'

(C) By striking the last sentence and inserting the following: `Such a presumption may be rebutted only if the Secretary finds, based on clear, convincing, and reliable evidence, that--

` (I) such standard level would cause serious and unavoidable hardship to the average consumer of the product, or to manufacturers supplying a significant portion of the market for the product, that substantially outweighs the standard level's benefits;

` (II) the standard and implementing regulations cannot be designed to avoid or mitigate the hardship identified under subclause (I), through the adoption of regional standards consistent with paragraph (6) of this subsection, or other reasonable means consistent with this part;

` (III) the same or substantially similar hardship would not occur under a standard adopted in the absence of the presumption, but that otherwise meets the requirements of this section; and

` (IV) the hardship cannot be avoided or mitigated pursuant the procedures specified in section 504 of the Department of Energy Organization Act (42 U.S.C. 7194).

A determination by the Secretary that the criteria triggering such presumption are not met, or that the criterion for rebutting the presumption are met shall not be taken into consideration in the Secretary's determination of whether a standard is economically justified.'

(e) Obtaining Appliance Information From Manufacturers- Section 326(d) of the Energy Policy and Conservation Act (42 U.S.C. 6295(d)) is amended to read as follows:

` (d) Information Requirements- (1) For purposes of carrying out this part, the Secretary shall publish proposed regulations not later than 1 year after the date of enactment of the American Clean Energy and Security Act of 2009, and after receiving public comment, final regulations not later than 18 months from such date of enactment under this part or other provision of law administered by the Secretary, which shall require each manufacturer of a covered product to submit information or reports to the Secretary on an annual basis in a form adopted by the Secretary. Such reports shall include information or data with respect to--

` (A) the manufacturers' compliance with all requirements applicable pursuant to this part;

` (B) the economic impact of any proposed energy conservation standard;

^ (C) the manufacturers' annual shipments of each class or category of covered products, organized, to the maximum extent practicable, by--

^ (i) energy efficiency, energy use, and, if applicable, water use;

^ (ii) the presence or absence of such efficiency related or energy consuming operational characteristics or components as the Secretary determines are relevant for the purposes of carrying out this part; and

^ (iii) the State or regional location of sale, for covered products for which the Secretary may adopt regional standards; and

^ (D) such other categories of information as the Secretary deems relevant to carry out this part, including such other information as may be necessary to establish and revise test procedures, labeling rules, and energy conservation standards and to insure compliance with the requirements of this part.

^ (2) In adopting regulations under this subsection, the Secretary shall consider existing public sources of information, including nationally recognized certification programs of trade associations.

^ (3) The Secretary shall exercise authority under this section in a manner designed to minimize unnecessary burdens on manufacturers of covered products.

^ (4) To the extent that they do not conflict with the duties of the Secretary in carrying out this part, the provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796(d)) shall apply with respect to information obtained under this subsection to the same extent and in the same manner as they apply with respect to other energy information obtained under such section.'

(f) State Waiver- Section 327(c) of the Energy Policy and Conservation Act (42 U.S.C. 6297(c)), as amended by section 161(a)(19) of this Act, is further amended by adding at the end the following:

^ (12) is a regulation concerning standards for hot food holding cabinets, drinking water dispensers and portable electric spas adopted by the California Energy Commission on or before January 1, 2013.'

(g) Waiver of Federal Preemption- Paragraph (1) of section 327(d) of the Energy Policy and Conservation Act (42 U.S.C. 6297(d)) is amended as follows:

(1) In subparagraph (A) by striking ^ State regulation' each place it appears and inserting ^ State statute or regulation'.

(2) In subparagraph (B) by adding at the end the following new sentence: ^ In making such a finding, the Secretary may not reject a petition for failure of the petitioning State or river basin commission to produce confidential information maintained by any manufacturer or distributor, or group or association of manufacturers or distributors, and which the petitioning party does not have the legal right to obtain.'

(3) In clause (ii) of subparagraph (C) by striking ^ costs' each place it appears and inserting ^ estimated costs'.

(4) In subparagraph (C) by striking ` within the context of the State's energy plan and forecast, and,'.

(h) Inclusion of Carbon Output on Appliance `Energyguide' Labels- (1) Section 324(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding the following at the end:

` (I)(i) Not later than 90 days after the date of enactment of this subparagraph, the Commission shall initiate a rulemaking to implement the additional labeling requirements specified in subsection (c)(1)(C) of this section with an effective date for the revised labeling requirement not later than 12 months from issuance of the final rule.

` (ii) Not later than 24 months after the date of enactment of this subparagraph, the Commission shall complete the rulemaking initiated under clause (i).

` (iii) Not later than 90 days after issuance of the final rule as provided in this subparagraph, the Secretary shall issue calculation methods required to effectuate the labeling requirements specified in subsection (c)(1)(C) of this section.'

(2) Section 324(c)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6294(c)(1)) is amended--

(A) by striking ` and' at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

` (C) for products or groups of products providing a comparable function (including the group of products comprising the heating function of heat pumps and furnaces) among covered products listed in paragraphs (3), (4), (5), (8), (9), (10), and (11) of section 322(a) of this part, and others designated by the Secretary, the estimated total annual atmospheric carbon dioxide emissions (or their equivalent in other greenhouse gases) associated with, or caused by, the product, calculated utilizing--

` (i) national average energy use for the product including energy consumed at the point of end use based on test procedures developed under section 323 of this part;

` (ii) national average energy consumed or lost in the production, generation, transportation, storage, and distribution of energy to the point of end use; and

` (iii) any direct emissions of greenhouse gases from the product during normal use;

` (D) in determining the national average energy consumption and total annual atmospheric carbon dioxide emissions, the Secretary shall utilize Federal Government sources, including the Energy Information Administration Annual Energy Review, the Environmental Protection Agency eGRID database, Environmental Protection Agency AP-42

Emission Factors as amended, and other sources determined to be appropriate by the Secretary; and

` (E) information presenting, for each product (or group of products providing the comparable function) identified in section (c)(1)(C) of this section, the estimated annual carbon dioxide emissions calculated within the range of emissions calculated for all models of the product or group according to its function, including those models consuming fuels and those models not consuming fuels.'

(i) Permitting States to Seek Injunctive Enforcement- (1) Section 334 of the Energy Policy and Conservation Act (42 U.S.C. 6304) is amended to read as follows:

**` SEC. 334. JURISDICTION AND VENUE.**

` (a) Jurisdiction- The United States district courts shall have jurisdiction to restrain --

` (1) any violation of section 332; and

` (2) any person from distributing in commerce any covered product which does not comply with an applicable rule under section 324 or 325.

` (b) Authority- Any action referred to in subsection (a) shall be brought by the Commission or by the attorney general of a State in the name of the State, except that--

` (1) any such action to restrain any violation of section 332(a)(3) which relates to requirements prescribed by the Secretary or any violation of section 332(a)(4) which relates to request of the Secretary under section 326(b)(2) shall be brought by the Secretary; and

` (2) any violation of section 332(a)(5) or 332(a)(7) shall be brought by the Secretary or by the attorney general of a State in the name of the State.

` (c) Venue and Service of Process- Any such action may be brought in the United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court of the district wherein the defendant is found or transacts business. In any action under this section, process may be served on a defendant in any other district in which the defendant resides or may be found.'

(2) The item relating to section 334 in the table of contents for such Act is amended to read as follows:

` Sec. 334. Jurisdiction and venue.'

(j) Treatment of Appliances Within Building Codes- (1) Section 327(f)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6297(f)(3)) is amended by striking subparagraphs (B) through (G) and inserting the following:

` (B) The code meets at least one of the following requirements:

- ^ (i) The code does not require that the covered product have an energy efficiency exceeding--
    - ^ (I) the applicable energy conservation standard established in or prescribed under section 325;
    - ^ (II) the level required by a regulation of that State for which the Secretary has issued a rule granting a waiver under subsection (d) of this section; or
    - ^ (III) the required level established in the International Energy Conservation Code or in a standard of the American Society of Heating, Refrigerating and Air-Conditioning Engineers, or by the Secretary pursuant to section 304 of the Energy Conservation and Production Act.
  - ^ (ii) If the code uses one or more baseline building designs against which all submitted building designs are to be evaluated and such baseline building designs contain a covered product subject to an energy conservation standard established in or prescribed under section 325, the baseline building designs are based on an efficiency level for such covered product which meets but does not exceed one of the levels specified in clause (i).
  - ^ (iii) If the code sets forth one or more optional combinations of items which meet the energy consumption or conservation objective, in at least one combination that the State has found to be reasonably achievable using commercially available technologies the efficiency of the covered product meets but does not exceed one of the levels specified in clause (i).
  - ^ (C) The credit to the energy consumption or conservation objective allowed by the code for installing covered products having energy efficiencies exceeding one of the levels specified in subparagraph (B)(i) is on a one-for-one equivalent energy use or equivalent energy cost basis, taking into account the typical lifetime of the product.
  - ^ (D) The energy consumption or conservation objective is specified in terms of an estimated total consumption of energy (which may be calculated from energy loss- or gain-based codes) utilizing an equivalent amount of energy (which may be specified in units of energy or its equivalent cost) and equivalent lifetimes.
  - ^ (E) The estimated energy use of any covered product permitted or required in the code, or used in calculating the objective, is determined using the applicable test procedures prescribed under section 323, except that the State may permit the estimated energy use calculation to be adjusted to reflect the conditions of the areas where the code is being applied if such adjustment is based on the use of the applicable test procedures prescribed under section 323 or other technically accurate documented procedure.'
- (2) Section 327(f)(4)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6297(f)(4)(B)) is amended to read as follows:

“(B) If a building code requires the installation of covered products with efficiencies exceeding the levels and requirements specified in paragraph (3)(B), such requirement of the building code shall not be applicable unless the Secretary has granted a waiver for such requirement under subsection (d) of this section.”.

## **SEC. 214. BEST-IN-CLASS APPLIANCES DEPLOYMENT PROGRAM.**

(a) In General- Not later than 1 year after the date of enactment of this Act, the Secretary of Energy, in consultation with the Administrator, shall establish a program to be known as the “Best-in-Class Appliances Deployment Program” to--

(1) provide bonus payments to retailers or distributors under subsection (c) for sales of best-in-class high-efficiency household appliance models, high-efficiency installed building equipment, and high-efficiency consumer electronics, with the goal of reducing life-cycle costs for consumers, encouraging innovation, and maximizing energy savings and public benefit;

(2) provide bounties under subsection (d) to retailers and manufacturers for the replacement, retirement, and recycling of old, inefficient, and environmentally harmful products; and

(3) provide premium awards under subsection (e) to manufacturers for developing and producing new Superefficient Best-in-Class Products.

(b) Designation of Best-in-Class Product Models-

(1) IN GENERAL- The Secretary of Energy shall designate product models of appliances, equipment, or electronics as Best-in-Class Product models. The Secretary shall publicly announce the Best-in-Class Product models designated under this subsection. The Secretary shall define product classes broadly and, except as provided in paragraph (2), shall designate as Best-in-Class Product models no more than the most efficient 10 percent of the commercially available product models in a class that demonstrate, as a group, a distinctly greater energy efficiency than the average energy efficiency of that class of appliances, equipment, or electronics. In designating models, the Secretary shall--

(A) identify commercially available models in the relevant class of products;

(B) identify the subgroup of those models that share the distinctly higher energy-efficiency characteristics that warrant designation as best-in-class; and

(C) add other models in that class to the list of Best-in-Class Product models as they demonstrate their ability to meet the higher-efficiency characteristics on which the designation was made.

(2) PERCENTAGE EXCEPTION- If there are fewer than 10 product models in a class of products, the Secretary may designate one or more of such models as Best-in-Class Products.

(3) REVIEW OF BEST-IN-CLASS STANDARDS- The Secretary shall review annually the product-specific criteria for designating, and the product models that qualify as, Best-in-Class Products and, after notice and a 30-day comment period, make upwards adjustments in the efficiency criteria as necessary to maintain an appropriate ratio of such product models to the total number of product models in the product class.

(4) SMART GRID ENERGY EFFICIENCY SAVINGS- The Secretary shall include energy efficiency savings achieved by a commercially available product having smart grid capability in determining the efficiency level of a product for purposes of a Best-In-Class Product designation pursuant to this subsection. In measuring energy efficiency savings achieved by smart grid capability, the Secretary shall use a metric that--

(A) is based on the time-differentiated value and amount of energy consumption;

(B) accounts for the capability of the product to respond to a smart grid in which the physical capability of the product to save or delay energy because of a smart grid feature is weighted by the likelihood that the feature will be used;

(C) is based on the value of a unit of electric or gas consumption as a function of time of day and season; and

(D) includes a test method by which the manufacturer shall determine the energy efficiency of smart grid capable products.

(c) Bonuses for Sales of Best-in-Class Products-

(1) IN GENERAL- The Secretary of Energy shall make bonus payments to retailers or, as provided in paragraph (5)(B), distributors for the sale of Best-in-Class Products.

(2) BONUS PROGRAM- The Secretary shall--

(A) publicly announce the availability and amount of the bonus to be paid for each sale of a Best-in-Class Product of a model designated under subsection (b); and

(B) make bonus payments in at least that amount for each Best-in-Class Product of that model sold during the 3-year period beginning on the date the model is designated under subsection (b).

(3) UPGRADE OF BEST-IN-CLASS PRODUCT ELIGIBILITY- In conducting a review under subsection (b)(3), the Secretary shall--

(A) consider designating as a Best-in-Class Product model a Superefficient Best-in-Class Product model that has been designated pursuant to subsection (e);

(B) announce any change in the bonus payment as necessary to increase the market share of Best-in-Class Product models;

(C) list models that will be eligible for bonuses in the new amount; and

(D) continue paying bonus payments at the original level, for the sale of any models that previously qualified as Best-in-Class Products but do not qualify at the new level, for the remainder of the 3-year period announced with the original designation.

(4) SIZE OF INDIVIDUAL BONUS PAYMENTS- (A) The size of each bonus payment under this subsection shall be the product of--

(i) an amount determined by the Secretary; and

(ii) the difference in energy consumption between the Best-in-Class Product and the average product in the product class.

(B) The Secretary shall determine the amount under subparagraph (A)(i) for each product type, in consultation with State and utility efficiency program administrators as well as the Administrator, based on estimates of the amount of bonus payment that would provide significant incentive to increase the market share of Best-in-Class Products.

(5) ELIGIBLE BONUS RECIPIENT- (A) The Secretary shall ensure that not more than 1 bonus payment is provided under this subsection for each Best-in-Class Product.

(B) The Secretary may make distributors eligible to receive bonus payments under this subsection for sales that are not to the final end-user, to the extent that the Secretary determines that for a particular product category distributors are well situated to increase sales of Best-in-Class Products.

(d) Bounties for Replacement, Retirement, and Recycling of Existing Low-Efficiency Products-

(1) IN GENERAL- The Secretary of Energy shall make bounty payments to--

(A) retailers for the replacement, retirement, and recycling of older operating low-efficiency products that might otherwise continue in operation; and

(B) manufacturers of Superefficient Best-in-Class Products for the retirement and recycling of older operating low-efficiency products that perform the same function and which might otherwise continue in operation.

(2) BOUNTIES- Bounties shall be payable--

(A) to a retailer upon documentation that the sale of a Best-in-Class Product was accompanied by the replacement, retirement, and recycling of--

(i) an inefficient but still-functioning product; or

(ii) a nonfunctioning product containing a refrigerant, by the consumer to whom the Best-in-Class Product was sold; and

(B) to a manufacturer upon documentation of the retirement and recycling of--

(i) an inefficient but still-functioning product from a consumer to whom a Superefficient Best-in-Class Product was delivered; or

(ii) a nonfunctioning product containing a refrigerant from a consumer to whom a Superefficient Best-in-Class Product was delivered.

(3) AMOUNT-

(A) FUNCTIONING PRODUCTS- The bounty payment payable under this subsection for a product described in paragraphs (2)(A)(i) and (2)(B)(i) shall be based on the difference between the estimated energy use of the product replaced and the energy use of an average new product in the product class, over the estimated remaining lifetime of the product that was replaced.

(B) NONFUNCTIONING PRODUCTS CONTAINING REFRIGERANTS- The bounty payment payable under this subsection for a product described in paragraphs (2)(A)(ii) and (2)(B)(ii) shall be in the amount that the Secretary of Energy, in consultation with the Administrator, determines is sufficient to promote the recycling of such products, up to the amount of bounty for a comparable product described in paragraphs (2)(A) and (2)(B).

(4) RETIREMENT- The Secretary shall ensure that no product for which a bounty is paid under this subsection is returned to active service, but that it is instead destroyed, and recycled to the extent feasible.

(5) RECYCLING APPLIANCES CONTAINING REFRIGERANTS- Exclusively for the purpose of implementing the bounty payment program for products containing a refrigerant under this section, the Administrator shall establish standards for environmentally responsible methods of recycling and disposal of refrigerant-containing appliances that, at a minimum, meet the requirements set by the Responsible Appliance Disposal (RAD) Program for refrigerant disposal. The Secretary shall ensure that such standards are met before a bounty payment is made under this subsection for a product containing a refrigerant. Nothing in this section shall be interpreted to alter the requirements of section 608 of the Clean Air Act or to relieve any person from complying with those requirements.

(e) Premium Awards for Development and Production of Superefficient Best-in-Class Products-

(1) IN GENERAL- (A) The Secretary of Energy shall provide premium awards to manufacturers for the development and production of Superefficient Best-in-Class Products. The Secretary shall set and periodically revise standards for eligibility of products for designation as a Superefficient Best-in-Class Product.

(B) The Secretary may establish a standard for a Superefficient Best-in-Class Product even if no product meeting that standard exists, if the Secretary has

reasonable grounds to conclude that a mass-producible product could be made to meet that standard.

(C) The Secretary may also establish a Superefficient Best-in-Class Product standard that is met by one or more existing Best-in-Class Product models, if those product models have distinct energy efficiency attributes and performance characteristics that make them significantly better than other product models qualifying as best-in-class. The Secretary may not designate as Superefficient Best-in-Class Products under this subparagraph models that represent more than 10 percent of the currently qualifying Best-in-Class Product models. This subparagraph shall not apply to products designated pursuant to paragraph (4)(A).

(D) In making its finding on the efficiency level a product can achieve for purposes of a Superefficient Best-In-Class Product designation pursuant to this paragraph, the Secretary shall include energy efficiency savings that would be achieved by a product as a result of smart grid capability when a product having such capability can be produced and sold commercially to mass market consumers. In measuring energy efficiency savings achieved by smart grid capability, the Secretary shall use a metric that--

(i) is based on the time-differentiated value and amount of energy consumption;

(ii) accounts for the capability of the product to respond to a smart grid in which the physical capability of the product to save or delay energy because of a smart grid feature is weighted by the likelihood that the feature will be used;

(iii) is based on the value of a unit of electric or gas consumption as a function of time of day and season; and

(iv) includes a test method by which the manufacturer shall determine the energy efficiency of smart grid capable products.

(2) PREMIUM AWARDS- (A) The premium award payment provided to a manufacturer under this subsection shall be in addition to any bonus payments made under subsection (c).

(B) The amount of the premium award paid per unit of Superefficient Best-in-Class Products sold to retailers or distributors shall, except as provided by subparagraph (F), be the product of--

(i) an amount determined by the Secretary; and

(ii) the difference in energy consumption between the Superefficient Best-in-Class Product and the average product in the product class.

(C) The Secretary shall determine the amount under subparagraph (B)(i) for each product type, in consultation with State and utility efficiency program administrators as well as the Administrator, based on consideration of the present value to the Nation of the energy (and water or other resources or inputs) saved over the useful life of the product. The Secretary may also take

into consideration the methods used to increase sales of qualifying products in determining such amount.

(D) The Secretary may adjust the value described in subparagraph (C) upward or downward as appropriate, including based on the effect of the premium awards on the sales of products in different classes that may be affected by the program under this subsection.

(E) Premium award payments shall be applied to sales of any Superefficient Best-in-Class Product for the first 3 years after designation as a Superefficient Best-in-Class Product.

(F) For years 2011 through 2013, the Secretary shall make bonus payments to manufacturers of the products designated in paragraph (4)(A) for each product produced in the following amounts:

- (i) \$75 for each dishwasher.
- (ii) \$250 for each clothes washer.
- (iii) \$200 for each refrigerator or refrigerator-freezer.
- (iv) \$250 for each clothes dryer.
- (v) \$200 for each cooking product.
- (vi) \$300 for each water heater.

(3) COORDINATION OF INCENTIVES- No product for which Federal tax credit is received under section 45M of the Internal Revenue Code of 1986 shall be eligible to receive premium award payments pursuant to this subsection.

(4) DESIGNATIONS-

(A) INITIAL DESIGNATIONS- Notwithstanding any other provisions of this section, the products the Secretary shall designate as a Superefficient Best-In-Class Product include, but are not limited to, the following products manufactured in 2011 through 2013:

- (i) A dishwasher, clothes washer, refrigerator, or refrigerator-freezer that meets the highest efficiency performance standards in its product category as provided in Section 305(b) of the Emergency Economic Stabilization Act of 2008 and has the smart grid capability specified in paragraph (5).
- (ii) A water heater that meets an efficiency standard that is the same or equivalent to the standard provided in Section 1333 of the Energy Policy Act of 2005 and has the smart grid capability specified in paragraph (5).
- (iii) A clothes dryer or cooking product that the Secretary determines meets the standards specified in subsection (j)(3), which the Secretary shall promulgate no later than 1 year after the

date of enactment, and has the smart grid capability specified in paragraph (5).

(B) EXTENSION OF INITIAL DESIGNATIONS-

(i) GENERAL- The Secretary shall in 2013 extend the Superefficient Best-In-Class Product designation of each product specified in subparagraph (A)(i) through (iii) through 2017, provided that for each product designation extended--

(I) the extension will result in significant energy efficiency savings;

(II) the product meets the Superefficient Best-In-Class Product criteria specified in paragraph (1);

(III) the eligibility standards of the product include the smart grid capability specified in paragraph (5); and

(IV) the Secretary makes appropriate revisions to the eligibility standards of the product as provided by paragraph (1).

(ii) AWARDS- If a Superefficient Best-In-Class Product designation for a product is extended pursuant to this subparagraph, the premium award for the product shall be determined in accordance with paragraph (2).

(5) SMART GRID CAPABILITY-

(A) Until the Secretary promulgates criteria under subparagraph (B), the term `smart grid capability' means capability of receiving and interpreting time-of-use pricing and peak-load-shed signals from a utility and--

(i) in the case of a cooking product, reducing a minimum of 20 percent during peak demand as measured by the tested average wattage over the course of a typical operating cycle of the product; or

(ii) in the case of a clothes washer, a refrigerator, a dishwasher, a dryer and a water heater, reducing a minimum of 50 percent during peak demand as measured by the tested average wattage over the course of a typical operating cycle of the product, provided that the typical operating cycle of a refrigerator and a water heater shall be a 24-hour period.

(B) After completion of the analysis required under section 142(b) of this Act, the Secretary shall expeditiously promulgate, after notice and a 30-day public comment period, criteria for what constitutes `smart grid capability.'

(f) Reporting- The Secretary of Energy shall require, as a condition of receiving a bonus, bounty, or premium award under this section, that a report containing the following documentation be provided:

(1) For retailers and distributors, the number of units sold within each product type, and model-specific wholesale purchase prices and retail sale prices, on a monthly basis.

(2) For manufacturers, model-specific energy efficiency and consumption data.

(3) For manufacturers, on an immediate basis, information concerning any product design or function changes that affect the energy consumption of the unit.

(4) The methods used to increase the sales of qualifying products.

(g) Monitoring and Verification Protocols- The Secretary of Energy shall establish monitoring and verification protocols for energy consumption tests for each product model and for sales of energy-efficient models. The Secretary shall estimate actual savings of energy from the use of Smart Grid capability in appliances for which premium award payments are made pursuant to subsection (e) as a function of utility and consumer readiness to utilize such capability.

(h) Disclosure- The Secretary of Energy may require that manufacturers, retailers and distributors disclose publicly and to consumers their participation in the program under this section.

(i) Cost-Effectiveness Requirement-

(1) REQUIREMENT- The Secretary of Energy shall make cost-effectiveness a top priority in designing the program under, and administering, this section, except that the cost-effectiveness of providing premium awards to manufacturers under subsection (e), in aggregate, may be lower by this measure than that of the bonuses and bounties to retailers and distributors under subsections (c) and (d).

(2) DEFINITIONS- In this subsection:

(A) COST-EFFECTIVENESS- The term `cost-effectiveness' means a measure of aggregate savings in the cost of energy over the lifetime of a product in relation to the cost to the Secretary of the bonuses, bounties, and premium awards provided under this section for a product.

(B) SAVINGS- The term `savings' means the cumulative megawatt-hours of electricity or million British thermal units of other fuels saved by a product during the projected useful life of the product, in comparison to projected energy consumption of the average product in the same class, taking into consideration the impact of any documented measures to replace, retire, and recycle low-efficiency products at the time of purchase of highly-efficient substitutes.

(j) Definitions- In this section--

(1) the term `distributor' mean an individual, organization, or company that sells products in multiple lots and not directly to end-users;

(2) the term `retailer' means an individual, organization, or company that sells products directly to end-users;

(3) the term `manufacturer' means an individual, organization, or company that transforms raw materials into mass-producible finished goods; and

(4) the term `Superefficient Best-in-Class Product' means a product that--

(A) can be mass produced; and

(B) achieves the highest level of efficiency that the Secretary of Energy finds can, given the current state of technology, be produced and sold commercially to mass-market consumers.

(k) Authorization of Appropriations- There are authorized to be appropriated \$600,000,000 for each of the fiscal years 2011 through 2013 to the Secretary of Energy for purposes of this section, and such sums as may be necessary for subsequent fiscal years. Of funds appropriated, not more than 10 percent for any fiscal year may be expended on program administration, and not less than 40 percent of any funds appropriated during fiscal years 2011 through 2013 shall be for purposes of subsection (e).

## **SEC. 215. WATERSENSE.**

(a) In General- There is established within the Environmental Protection Agency a WaterSense program to identify and promote water efficient products, buildings and landscapes, and services in order--

(1) to reduce water use;

(2) to reduce the strain on water, wastewater, and stormwater infrastructure;

(3) to conserve energy used to pump, heat, transport, and treat water; and

(4) to preserve water resources for future generations,

through voluntary labeling of, or other forms of communications about, products, buildings and landscapes, and services that meet the highest water efficiency and performance standards.

(b) Duties- The Administrator shall--

(1) promote WaterSense labeled products, buildings and landscapes, and services in the market place as the preferred technologies and services for--

(A) reducing water use; and

(B) ensuring product and service performance;

(2) work to enhance public awareness of the WaterSense label through public outreach, education, and other means;

(3) establish and maintain performance standards so that products, buildings and landscapes, and services labeled with the WaterSense label perform as well or better than their less efficient counterparts;

(4) publicize the need for proper installation and maintenance of WaterSense products by a licensed, and where certification guidelines exist, WaterSense-certified professional to ensure optimal performance;

(5) preserve the integrity of the WaterSense label;

(6) regularly review and, when appropriate, update WaterSense criteria for categories of products, buildings and landscapes, and services, at least once every 4 years;

(7) to the extent practical, regularly estimate and make available to the public the production and relative market shares of WaterSense labeled products, buildings and landscapes, and services, at least annually;

(8) to the extent practical, regularly estimate and make available to the public the water and energy savings attributable to the use of WaterSense labeled products, buildings and landscapes, and services, at least annually;

(9) solicit comments from interested parties and the public prior to establishing or revising a WaterSense category, specification, installation criterion, or other criterion (or prior to effective dates for any such category, specification, installation criterion, or other criterion);

(10) provide reasonable notice to interested parties and the public of any changes (including effective dates), on the adoption of a new or revised category, specification, installation criterion, or other criterion, along with--

(A) an explanation of changes; and

(B) as appropriate, responses to comments submitted by interested parties;

(11) provide appropriate lead time (as determined by the Administrator) prior to the applicable effective date for a new or significant revision to a category, specification, installation criterion, or other criterion, taking into account the timing requirements of the manufacturing, marketing, training, and distribution process for the specific product, building and landscape, or service category addressed; and

(12) identify and, where appropriate, implement other voluntary approaches in commercial, institutional, residential, municipal, and industrial sectors to encourage reuse and recycling technologies, improve water efficiency, or lower water use while meeting, where applicable, the performance standards established under paragraph (3).

(c) Authorization of Appropriations- There are authorized to be appropriated \$7,500,000 for fiscal year 2010, \$10,000,000 for fiscal year 2011, \$20,000,000 for fiscal year 2012, and \$50,000,000 for fiscal year 2013 and each year thereafter, adjusted for inflation, to carry out this section.

## SEC. 216. FEDERAL PROCUREMENT OF WATER EFFICIENT PRODUCTS.

(a) Definitions- In this section:

(1) AGENCY- The term `agency' has the meaning given that term in section 7902(a) of title 5, United States Code.

(2) WATERSENSE PRODUCT OR SERVICE- The term `WaterSense product or service' means a product or service that is rated for water efficiency under the WaterSense program.

(3) WATERSENSE PROGRAM- The term `WaterSense program' means the program established by section 215 of this Act.

(4) FEMP DESIGNATED PRODUCT- The term `FEMP designated product' means a product that is designated under the Federal Energy Management Program of the Department of Energy as being among the highest 25 percent of equivalent products for efficiency.

(5) PRODUCT AND SERVICE- The terms `product' and `service' do not include any water consuming product or service designed or procured for combat or combat-related missions. The terms also exclude products or services already covered by the Federal procurement regulations established under section 553 of the National Energy Conservation Policy Act (42 U.S.C. 8259b).

(b) Procurement of Water Efficient Products-

(1) REQUIREMENT- To meet the requirements of an agency for a water consuming product or service, the head of the agency shall, except as provided in paragraph (2), procure--

(A) a WaterSense product or service; or

(B) a FEMP designated product.

A WaterSense plumbing product should preferably, when possible, be installed by a licensed and, when WaterSense certification guidelines exist, WaterSense-certified plumber or mechanical contractor, and a WaterSense irrigation system should preferably, when possible, be installed, maintained, and audited by a WaterSense-certified irrigation professional to ensure optimal performance.

(2) EXCEPTIONS- The head of an agency is not required to procure a WaterSense product or service or FEMP designated product under paragraph (1) if the head of the agency finds in writing that--

(A) a WaterSense product or service or FEMP designated product is not cost-effective over the life of the product, taking energy and water cost savings into account; or

(B) no WaterSense product or service or FEMP designated product is reasonably available that meets the functional requirements of the agency.

(3) PROCUREMENT PLANNING- The head of an agency shall incorporate into the specifications for all procurements involving water consuming products and systems, including guide specifications, project specifications, and construction, renovation, and services contracts that include provision of water consuming products and systems, and into the factors for the evaluation of offers received for the procurement, criteria used for rating WaterSense products and services and FEMP designated products. The head of an agency shall consider, to the maximum extent practicable, additional measures for reducing agency water consumption, including water reuse technologies, leak detection and repair, and use of waterless products that perform similar functions to existing water-consuming products.

(c) Regulations- Not later than 180 days after the date of enactment of this Act, the Secretary of Energy, working in coordination with the Administrator, shall issue guidelines to carry out this section.

## **SEC. 217. EARLY ADOPTER WATER EFFICIENT PRODUCT INCENTIVE PROGRAMS.**

(a) Definitions- In this section:

(1) ELIGIBLE ENTITY- The term `eligible entity' means a State government, local or county government, tribal government, wastewater or sewerage utility, municipal water authority, energy utility, water utility, or nonprofit organization that meets the requirements of subsection (b).

(2) INCENTIVE PROGRAM- The term `incentive program' means a program for administering financial incentives for consumer purchase and installation of residential water efficient products and services as described in subsection (b)(1).

(3) RESIDENTIAL WATER EFFICIENT PRODUCT OR SERVICE- The term `residential water efficient product or service' means a product or service for a single-family or multifamily residence or its landscape that is rated for water efficiency and performance--

(A) by the WaterSense program; or

(B) where a WaterSense specification does not exist, by an incentive program.

Categories of water efficient products and services may include faucets, irrigation technologies and services, point-of-use water treatment devices, reuse and recycling technologies, toilets, and showerheads.

(4) WATERSENSE PROGRAM- The term `WaterSense program' means the program established by section 215 of this Act.

(b) Eligible Entities- An entity shall be eligible to receive an allocation under subsection (c) if the entity--

- (1) establishes (or has established) an incentive program to provide rebates, vouchers, other financial incentives, or direct installs to consumers for the purchase of residential water efficient products or services;
- (2) submits an application for the allocation at such time, in such form, and containing such information as the Administrator may require; and
- (3) provides assurances satisfactory to the Administrator that the entity will use the allocation to supplement, but not supplant, funds made available to carry out the incentive program.

(c) Amount of Allocations- For each fiscal year, the Administrator shall determine the amount to allocate to each eligible entity to carry out subsection (d) taking into consideration--

- (1) the population served by the eligible entity in the most recent calendar year for which data are available;
- (2) the targeted population of the eligible entity's incentive program, such as general households, low-income households, or first-time homeowners, and the probable effectiveness of the incentive program for that population;
- (3) for existing programs, the effectiveness of the incentive program in encouraging the adoption of water efficient products and services; and
- (4) any prior year's allocation to the eligible entity that remains unused.

(d) Use of Allocated Funds- Funds allocated to an entity under subsection (c) may be used to pay up to 50 percent of the cost of establishing and carrying out an incentive program.

(e) Fixture Recycling- Entities are encouraged to promote or implement fixture recycling programs to manage the disposal of older fixtures replaced due to the incentive program under this section.

(f) Issuance of Incentives- Financial incentives may be provided to consumers that meet the requirements of the incentive program. The entity may issue all financial incentives directly to consumers or, with approval of the Administrator, delegate some or all financial incentives administration to other organizations including, but not limited to, local governments, municipal water authorities, and water utilities. The amount of a financial incentives shall be determined by the entity, taking into consideration--

- (1) the amount of the allocation to the entity under subsection (c);
- (2) the amount of any Federal, State, or other organization's tax or financial incentive available for the purchase of the residential water efficient product or service;
- (3) the amount necessary to change consumer behavior to purchase water efficient products and services; and

(4) the consumer expenditures for onsite preparation, assembly, and original installation of the product.

(g) Authorization of Appropriations- There are authorized to be appropriated to the Administrator to carry out this section \$50,000,000 for fiscal year 2010, \$100,000,000 for fiscal year 2011, \$150,000,000 for fiscal year 2012, \$100,000,000 for fiscal year 2013, and \$50,000,000 for fiscal year 2014.

## **SEC. 218. CERTIFIED STOVES PROGRAM.**

(a) Definitions- In this section:

(1) AGENCY- The term `Agency' means the Environmental Protection Agency.

(2) WOOD STOVE OR PELLET STOVE- The term `wood stove or pellet stove' means a wood stove, pellet stove, or fireplace insert that uses wood or pellets for fuel.

(3) CERTIFIED STOVE- The term `certified stove' means a wood stove or pellet stove that meets the standards of performance for new residential wood heaters under subpart AAA of part 60 of subchapter C of chapter I of title 40, Code of Federal Regulations (or successor regulations), as certified by the Administrator. Pellet stoves and fireplace inserts using pellets for fuel that are exempt from testing by the Administrator but meet the same standards of performance as wood stoves are considered certified for the purposes of this section.

(4) ELIGIBLE ENTITY- The term `eligible entity' means--

(A) a State, a local government, or a federally recognized Indian tribe;

(B) Alaskan Native villages or regional or village corporations (as defined in, or established under, the Alaskan Native Claims Settlement Act (43 U.S.C. 1601 et seq.)); and

(C) a nonprofit organization or institution that--

(i) represents or provides pollution reduction or educational services relating to wood smoke minimization to persons, organizations, or communities; or

(ii) has, as its principal purpose, the promotion of air quality or energy efficiency.

(b) Establishment- The Administrator shall establish and carry out a program to assist in the replacement of wood stoves or pellet stoves that do not meet the standards of performance referred to in subsection (a)(4) by--

(1) requiring that each wood stove or pellet stove sold in the United States on and after the date of enactment of this Act meet the standards of performance referred to in subsection (a)(4);

(2) requiring that no wood stove or pellet stove replaced under this program is sold or returned to active service, but that it is instead destroyed and recycled to the maximum extent feasible;

(3) providing funds to an eligible entity to replace a wood stove or pellet stove that does not meet the standards of performance in subsection (a)(4) with a certified stove, including funds to pay for--

(A) installation of a replacement certified stove; and

(B) necessary replacement of or repairs to ventilation, flues, chimneys, or other relevant items necessary for safe installation of a replacement certified stove;

(4) in addition to any funds that may be appropriated for the program under this subsection, using existing Federal, State, and local programs and incentives, to the greatest extent practicable;

(5) prioritizing the replacement of wood stoves or pellet stoves manufactured before July 1, 1990; and

(6) carrying out such other activities as the Administrator determines appropriate to facilitate the replacement of wood stoves or pellet stoves that do not meet the standards of performance referred to in subsection (a)(3).

(c) Regulations- The Administrator may promulgate such regulations as are necessary to carry out the program established under subsection (b).

(d) Funding-

(1) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to carry out the program under this section \$20,000,000 for the period of fiscal years 2010 through 2014.

(2) DESIGNATED USE- Of amounts appropriated pursuant to this subsection--

(A) 25 percent shall be designated for use to carry out the program under this section on lands held in trust for the benefit of a federally recognized Indian tribe;

(B) 3 percent shall be designated for use to carry out the program under this section in Alaskan Native villages or regional or village corporations (as defined in, or established under, the Alaskan Native Claims Settlement Act (43 U.S.C. 1601 et seq.)); and

(C) 72 percent shall be designated for use to carry out the program under this section nationwide.

(3) REGULATORY PROGRAMS-

(A) IN GENERAL- No grant or loan provided under this section shall be used to fund the costs of emissions reductions that are mandated under Federal, State, or local law.

(B) MANDATED- For purposes of subparagraph (A), voluntary or elective emission reduction measures shall not be considered `mandated', regardless of whether the reductions are included in the implementation plan of a State.

(e) EPA Authority to Accept Wood Stove or Pellet Stove Replacement Supplemental Environmental Projects-

(1) IN GENERAL- The Administrator may accept (notwithstanding sections 3302 and 1301 of title 31, United States Code) wood stove or pellet stove replacement Supplemental Environmental Projects if such projects, as part of a settlement of any alleged violation of environmental law--

(A) protect human health or the environment;

(B) are related to the underlying alleged violation;

(C) do not constitute activities that the defendant would otherwise be legally required to perform; and

(D) do not provide funds for the staff of the Agency or for contractors to carry out the Agency's internal operations.

(2) CERTIFICATION- In any settlement agreement regarding an alleged violation of environmental law in which a defendant agrees to perform a wood stove or pellet stove replacement Supplemental Environmental Project, the Administrator shall require the defendant to include in the settlement documents a certification under penalty of law that the defendant would have agreed to perform a comparably valued, alternative project other than a wood stove or pellet stove replacement Supplemental Environmental Project if the Administrator were precluded by law from accepting a wood stove or pellet stove replacement Supplemental Environmental Project. A failure by the Administrator to include this language in such a settlement agreement shall not create a cause of action against the United States under the Clean Air Act or any other law or create a basis for overturning a settlement agreement entered into by the United States.

## **SEC. 219. ENERGY STAR STANDARDS.**

(a) Energy Star- Section 324A(c) of the Energy Policy and Conservation Act is amended--

(1) in paragraph (6)(B), by striking `and' after the semicolon at the end;

(2) in paragraph (7), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

`(8) not later than 18 months after the date of enactment of this paragraph, establish and implement a rating system for products identified as Energy Star products pursuant to this section to provide consumers with the most helpful information on the relative energy efficiency, including cost

effectiveness from the consumer's perspective, and relative length of time for consumers to recover costs attributable to the energy efficient features, of those products, unless the Administrator and the Secretary communicate to Congress that establishing such a system would diminish the value of the Energy Star brand to consumers;

^ (9)(A) review the Energy Star product criteria for the 10 product models in each product category with the greatest energy consumption at least once every 3 years; and

^ (B) based on the review, update and publish the Energy Star product criteria for each such category, as necessary; and

^ (10) require periodic verification of compliance with the Energy Star product criteria by products identified as Energy Star products pursuant to this section, including--

^ (A) purchase and testing of products from the market; or

^ (B) other appropriate testing and compliance approaches.'

(b) Authorization of Appropriations- There are authorized to be appropriated to carry out the amendments made by this section \$5,000,000 for fiscal year 2010 and for each fiscal year thereafter.

### **Subtitle C--Transportation Efficiency**

## **SEC. 221. EMISSIONS STANDARDS.**

Title VIII of the Clean Air Act, as added by section 331 of this Act, is amended by inserting after part A the following new part:

### ***^ PART B--MOBILE SOURCES***

## **^ SEC. 821. GREENHOUSE GAS EMISSION STANDARDS FOR MOBILE SOURCES.**

^ (a) New Motor Vehicles and New Motor Vehicle Engines- (1) Pursuant to section 202(a)(1), by December 31, 2010, the Administrator shall promulgate standards applicable to emissions of greenhouse gases from new heavy-duty motor vehicles or new heavy-duty motor vehicle engines, excluding such motor vehicles covered by the Tier II standards (as established by the Administrator as of the date of the enactment of this section). The Administrator may revise these standards from time to time.

^ (2) Regulations issued under section 202(a)(1) applicable to emissions of greenhouse gases from new heavy-duty motor vehicles or new heavy-duty motor vehicle engines, excluding such motor vehicles covered by the Tier II standards (as established by the Administrator as of the date of the enactment of this section), shall contain standards that reflect the greatest degree of emissions reduction achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply,

giving appropriate consideration to cost, energy, and safety factors associated with the application of such technology. Any such regulations shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, and, at a minimum, shall apply for a period no less than 3 model years beginning no earlier than the model year commencing 4 years after such regulations are promulgated.

ˆ (3) Regulations issued under section 202(a)(1) applicable to emissions of greenhouse gases from new heavy-duty motor vehicles or new heavy-duty motor vehicle engines, excluding such motor vehicles covered by the Tier II standards (as established by the Administrator as of the date of the enactment of this section), shall supersede and satisfy any and all of the rulemaking and compliance requirements of section 32902(k) of title 49, United States Code.

ˆ (4) Other than as specifically set forth in paragraph (3) of this subsection, nothing in this section shall affect or otherwise increase or diminish the authority of the Secretary of Transportation to adopt regulations to improve the overall fuel efficiency of the commercial goods movement system.

ˆ (b) Nonroad Vehicles and Engines- (1) Pursuant to section 213(a)(4) and (5), the Administrator shall identify those classes or categories of new nonroad vehicles or engines, or combinations of such classes or categories, that, in the judgment of the Administrator, both contribute significantly to the total emissions of greenhouse gases from nonroad engines and vehicles, and provide the greatest potential for significant and cost-effective reductions in emissions of greenhouse gases. The Administrator shall promulgate standards applicable to emissions of greenhouse gases from these new nonroad engines or vehicles by December 31, 2012. The Administrator shall also promulgate standards applicable to emissions of greenhouse gases for such other classes and categories of new nonroad vehicles and engines as the Administrator determines appropriate and in the timeframe the Administrator determines appropriate. The Administrator shall base such determination, among other factors, on the relative contribution of greenhouse gas emissions, and the costs for achieving reductions, from such classes or categories of new nonroad engines and vehicles. The Administrator may revise these standards from time to time.

ˆ (2) Standards under section 213(a)(4) and (5) applicable to emissions of greenhouse gases from those classes or categories of new nonroad engines or vehicles identified in the first sentence of paragraph (1) of this subsection, shall achieve the greatest degree of emissions reduction achievable based on the application of technology which the Administrator determines will be available at the time such standards take effect, taking into consideration cost, energy, and safety factors associated with the application of such technology. Any such regulations shall take effect at the earliest possible date after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period, the applicable compliance dates for other standards, and other appropriate factors, including the period of time appropriate for the transfer of applicable technology from other applications, including motor vehicles, and the period of time in which previously promulgated regulations have been in effect.

ˆ (3) For purposes of this section and standards under section 213(a)(4) or (5) applicable to emissions of greenhouse gases, the term ˆ nonroad engines and

vehicles' shall include non-internal combustion engines and the vehicles these engines power (such as electric engines and electric vehicles), for those non-internal combustion engines and vehicles which would be in the same category and have the same uses as nonroad engines and vehicles that are powered by internal combustion engines.

^ (c) Averaging, Banking, and Trading of Emissions Credits- In establishing standards applicable to emissions of greenhouse gases pursuant to this section and sections 202(a), 213(a)(4) and (5), and 231(a), the Administrator may establish provisions for averaging, banking, and trading of greenhouse gas emissions credits within or across classes or categories of motor vehicles and motor vehicle engines, nonroad vehicles and engines (including marine vessels), and aircraft and aircraft engines, to the extent the Administrator determines appropriate and considering the factors appropriate in setting standards under those sections. Such provisions may include reasonable and appropriate provisions concerning generation, banking, trading, duration, and use of credits.

^ (d) Reports- The Administrator shall, from time to time, submit a report to Congress that projects the amount of greenhouse gas emissions from the transportation sector, including transportation fuels, for the years 2030 and 2050, based on the standards adopted under this section.

^ (e) Greenhouse Gases- Notwithstanding the provisions of section 711, hydrofluorocarbons shall be considered a greenhouse gas for purposes of this section.'

## **SEC. 222. GREENHOUSE GAS EMISSIONS REDUCTIONS THROUGH TRANSPORTATION EFFICIENCY.**

(a) Environmental Protection Agency- Title VIII of the Clean Air Act, as added by section 331 of this Act, is further amended by inserting after part C the following new part:

### ***^ PART D--TRANSPORTATION EMISSIONS***

## **^ SEC. 841. GREENHOUSE GAS EMISSIONS REDUCTIONS THROUGH TRANSPORTATION EFFICIENCY.**

^ (a) In General- The Administrator, in consultation with the Secretary of Transportation, shall promulgate, and update from time to time, regulations to establish national transportation-related greenhouse gas emissions reduction goals, standardized models and methodologies for use in developing surface transportation-related greenhouse gas emissions reduction targets pursuant to sections 134 and 135 of title 23 of the United States Code and methods for collection of data on transportation-related greenhouse gas emissions. Such goals shall be commensurate with the emissions reductions goals established under the American Clean Energy and Security Act of 2009. In establishing such goals, models, and methodologies, the Administrator shall consult with States and metropolitan planning organizations and may utilize existing models and methodologies.

^ (b) Timing- The Administrator shall--

^ (1) publish proposed regulations under subsection (a) not later than 12 months after the date of enactment of this section; and

^ (2) promulgate final regulations under subsection (a) not later than 18 months after the date of enactment of this section.

^ (c) Assessment- At least every 6 years after promulgating final regulations under subsection (a), the Administrator, jointly with the Secretary of Transportation, shall assess current and projected progress in reducing national transportation-related greenhouse gas emissions. The assessment shall examine the contributions to emissions reductions attributable to improvements in vehicle efficiency, greenhouse gas performance of transportation fuels, increased efficiency in utilizing transportation systems and the effects of local and State planning.'

(b) Metropolitan Planning Organizations- Section 134 of title 23 of the United States Code is amended as follows:

(1) In subsection (a)(1)--

(A) by striking `minimizing' and inserting `reducing'; and

(B) by inserting `, reliance on oil, impacts on the environment, transportation-related greenhouse gas emissions' after `consumption'.

(2) In subsection (h)(1)(E)--

(A) by inserting `sustainability and livability, reduce surface transportation-related greenhouse gas emissions and reliance on oil, adapt to the effects of climate change,' after `energy conservation';

(B) by inserting `and public health' after `quality of life'; and

(C) by inserting `, including housing and land use patterns' after `development patterns'.

(3) In subsection (i)(4)(A) by inserting `air quality, public health, housing, transportation,' after `conservation,'.

(4) In subsection (k) by inserting at the end the following new paragraph:

^ (6) EMISSIONS REDUCTION PROCESS-

^ (A) IN GENERAL- Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address transportation-related greenhouse gas emissions by including emission reduction targets and strategies.

^ (B) ESTABLISHMENT OF EMISSIONS REDUCTION TARGETS AND STRATEGIES-

^ (i) IN GENERAL- Not later than 1 year after the promulgation of the final regulations required under section 841 of the Clean Air Act, each metropolitan planning organization shall develop surface

transportation-related greenhouse gas emission reduction targets, as well as strategies to meet such targets, as part of the transportation planning process under this section. If more than one metropolitan planning organization has been designated within a metropolitan planning area serving a transportation management area, each such metropolitan planning organization shall work cooperatively with other such organization to develop the surface transportation-related greenhouse gas emission reduction targets required under this subparagraph.

ˆ (ii) MINIMUM REQUIREMENTS- Each metropolitan planning organization that develops targets and strategies required under clause (i) shall demonstrate progress in stabilizing and reducing transportation-related greenhouse gas emissions in each metropolitan planning area serving a surface transportation management area. The targets and strategies shall, at a minimum-

ˆ (I) be based on the models and methodologies established in the final regulations required under section 841 of the Clean Air Act;

ˆ (II) address sources of surface transportation-related greenhouse gas emissions and contribute to achievement of the national transportation-related greenhouse gas emissions reduction goals;

ˆ (III) include efforts to increase public transportation ridership; and

ˆ (IV) include efforts to increase walking, bicycling, and other forms of nonmotorized transportation.

ˆ (C) PUBLIC NOTICE- Each metropolitan planning organization shall make its emission reduction targets and strategies, and an analysis of the anticipated effects thereof, available to the public through its Web site.

ˆ (D) ENFORCEMENT- If the Secretary finds that a metropolitan planning organization has failed to develop, submit or publish its emission reduction targets and strategies, the Secretary shall not certify that the requirements of this section are met with respect to the metropolitan planning process of such organization.'

(c) States- Section 135 of title 23 of the United States Code is amended as follows:

(1) In subsection (d)(1)(E)--

(A) by inserting 'sustainability and livability, reduce surface transportation-related greenhouse gas emissions and reliance on oil, adapt to the effects of climate change,' after 'energy conservation';

(B) by inserting 'and public health' after 'quality of life'; and

(C) by inserting ` , including housing and land use patterns' after `development patterns'.

(2) In subsection (f)(2)(D)(i) by inserting ` air quality, public health, housing, transportation,' after `conservation,'.

(3) In subsection (f) by inserting at the end the following new paragraph:

` (9) EMISSIONS REDUCTION PROCESS-

` (A) IN GENERAL- Within a State, the transportation planning process under this section shall address transportation-related greenhouse gas emissions by including emission reduction targets and strategies.

` (B) ESTABLISHMENT OF EMISSIONS REDUCTION TARGETS AND STRATEGIES-

` (i) IN GENERAL- Not later than 1 year after the promulgation of the final regulations required under section 841 of the Clean Air Act, each State shall develop surface transportation-related greenhouse gas emission reduction targets, as well as strategies to meet such targets, as part of the transportation planning process under this section.

` (ii) MINIMUM REQUIREMENTS- Each State that develops targets and strategies required under clause (i) shall demonstrate progress in stabilizing and reducing transportation-related greenhouse gas emissions in such State. The targets and strategies shall, at a minimum--

` (I) be based on the models and methodologies established in the final regulations required under section 841 of the Clean Air Act;

` (II) address sources of surface transportation-related greenhouse gas emissions and contribute to achievement of the national transportation-related greenhouse gas emissions reduction goals;

` (III) include efforts to increase public transportation ridership; and

` (IV) include efforts to increase walking, bicycling, and other forms of nonmotorized transportation.

` (D) PUBLIC NOTICE- Each State shall make its emission reduction targets and strategies, and an analysis of the anticipated effects thereof, available to the public through its Web site.

` (E) ENFORCEMENT- If the Secretary finds that a State has failed to develop, submit or publish its emission reduction targets and strategies, the Secretary shall not certify that the requirements of this section are met with respect to the statewide planning process of such State.'.

(d) Department of Transportation- The Secretary of Transportation shall establish appropriate requirements, including performance measures, to ensure that transportation plans developed under sections 134 and 135 of title 23 of the United States Code sufficiently meet the requirements of this section, including achieving progress towards national transportation-related greenhouse gas emissions reduction goals.

## **SEC. 223. SMARTWAY TRANSPORTATION EFFICIENCY PROGRAM.**

Part B of title VIII of the Clean Air Act, as added by section 221 of this Act is amended by adding after section 821 the following section:

## **SEC. 822. SMARTWAY TRANSPORTATION EFFICIENCY PROGRAM.**

(a) In General- There is established within the Environmental Protection Agency a SmartWay Transport Program to quantify, demonstrate, and promote the benefits of technologies, products, fuels, and operational strategies that reduce petroleum consumption, air pollution, and greenhouse gas emissions from the mobile source sector.

(b) General Duties- Under the program established under this section, the Administrator shall carry out each of the following:

(1) Development of measurement protocols to evaluate the energy consumption and greenhouse gas impacts from technologies and strategies in the mobile source sector, including those for passenger transport and goods movement.

(2) Development of qualifying thresholds for certifying, verifying, or designating energy-efficient, low-greenhouse gas SmartWay technologies and strategies for each mode of passenger transportation and goods movement.

(3) Development of partnership and recognition programs to promote best practices and drive demand for energy-efficient, low-greenhouse gas transportation performance.

(4) Promotion of the availability of, and encouragement of the adoption of, SmartWay certified or verified technologies and strategies, and publication of the availability of financial incentives, such as assistance from loan programs and other Federal and State incentives.

(c) Smartway Transport Freight Partnership- The Administrator shall establish a SmartWay Transport Freight Partnership program with shippers and carriers of goods to promote energy-efficient, low-greenhouse gas transportation. In carrying out such partnership, the Administrator shall undertake each of the following:

(1) Certification of the energy and greenhouse gas performance of participating freight carriers, including those operating rail, trucking, marine, and other goods movement operations.

(2) Publication of a comprehensive energy and greenhouse gas performance index of freight modes (including rail, trucking, marine, and other modes of

transporting goods) and individual freight companies so that shippers can choose to deliver their goods more efficiently.

ˆ (3) Development of tools for--

ˆ (A) carriers to calculate their energy and greenhouse gas performance; and

ˆ (B) shippers to calculate the energy and greenhouse gas impacts of moving their products and to evaluate the relative impacts from transporting their goods by different modes and corporate carriers.

ˆ (4) Provision of recognition opportunities for participating shipper and carrier companies demonstrating advanced practices and achieving superior levels of greenhouse gas performance.

ˆ (d) Improving Freight Greenhouse Gas Performance Databases- The Administrator shall, in coordination with other appropriate agencies, define and collect data on the physical and operational characteristics of the Nation's truck population, with special emphasis on data related to energy efficiency and greenhouse gas performance to inform the performance index published under subsection (c)(2) of this section, and other means of goods transport as necessary, at least every 5 years.

ˆ (e) Establishment of Financing Program- The Administrator shall establish a SmartWay Financing Program to competitively award funding to eligible entities identified by the Administrator in accordance with the program requirements in subsection (g).

ˆ (f) Purpose- Under the SmartWay Financing Program, eligible entities shall--

ˆ (1) use funds awarded by the Administrator to provide flexible loan and lease terms that increase approval rates or lower the costs of loans and leases in accordance with guidance developed by the Administrator; and

ˆ (2) make such loans and leases available to public and private entities for the purpose of adopting low-greenhouse gas technologies or strategies for the mobile source sector that are designated by the Administrator.

ˆ (g) Program Requirements- The Administrator shall determine program design elements and requirements, including--

ˆ (1) the type of financial mechanism with which to award funding, in the form of grants or contracts;

ˆ (2) the designation of eligible entities to receive funding, including State, tribal, and local governments, regional organizations comprised of governmental units, nonprofit organizations, or for-profit companies;

ˆ (3) criteria for evaluating applications from eligible entities, including anticipated--

ˆ (A) cost-effectiveness of loan or lease program on a metric-ton-of-greenhouse gas-saved-per-dollar basis;

- ^ (B) ability to promote the loan or lease program and associated technologies and strategies to the target audience; and
- ^ (4) reporting requirements for entities that receive awards, including--
  - ^ (A) actual cost-effectiveness and greenhouse gas savings from the loan or lease program based on a methodology designated by the Administrator;
  - ^ (B) the total number of applications and number of approved applications; and
  - ^ (C) terms granted to loan and lease recipients compared to prevailing market practices.
- ^ (h) Authorization of Appropriations- Such sums as necessary are authorized to be appropriated to the Administrator to carry out this section.'

## **SEC. 224. STATE VEHICLE FLEETS.**

Section 507(o) of the Energy Policy Act of 1992 (42 U.S.C. 13257) is amended by adding the following new paragraph at the end thereof:

- ^ (3) The Secretary shall revise the rules under this subsection with respect to the types of alternative fueled vehicles required for compliance with this subsection to ensure those rules are consistent with any guidance issued pursuant to section 303 of this Act.'

### **Subtitle D--Industrial Energy Efficiency Programs**

## **SEC. 241. INDUSTRIAL PLANT ENERGY EFFICIENCY STANDARDS.**

The Secretary of Energy shall continue to support the development of the American National Standards Institute (ANSI) voluntary industrial plant energy efficiency certification program, pending International Standards Organization (ISO) consensus standard 50001, and other related ANSI/ISO standards. In addition, the Department shall undertake complementary activities through the Department of Energy's Industry Technologies Program that support the voluntary implementation of such standards by manufacturing firms. There are authorized to be appropriated to the Secretary such sums as are necessary to carry out these activities. The Secretary shall report to Congress on the status of standards development and plans for further standards development pursuant to this section by not later than 18 months after the date of enactment of this Act, and shall prepare a second such report 18 months thereafter.

## **SEC. 242. ELECTRIC AND THERMAL WASTE ENERGY RECOVERY AWARD PROGRAM.**

(a) Electric and Thermal Waste Energy Recovery Awards- The Secretary of Energy shall establish a program to make monetary awards to the owners and operators of new and existing electric energy generation facilities or thermal energy production facilities using fossil or nuclear fuel, to encourage them to use innovative means of

recovering any thermal energy that is a potentially useful byproduct of electric power generation or other processes to--

(1) generate additional electric energy; or

(2) make sales of thermal energy not used for electric generation, in the form of steam, hot water, chilled water, or desiccant regeneration, or for other commercially valid purposes.

(b) Amount of Awards-

(1) ELIGIBILITY- Awards shall be made under subsection (a) only for the use of innovative means that achieve net energy efficiency at the facility concerned significantly greater than the current standard technology in use at similar facilities.

(2) AMOUNT- The amount of an award made under subsection (a) shall equal an amount up to the value of 25 percent of the energy projected to be recovered or generated during the first 5 years of operation of the facility using the innovative energy recovery method, or such lesser amount that the Secretary determines to be the minimum amount that can cost-effectively stimulate such innovation.

(3) LIMITATION- No person may receive an award under this section if a grant under the waste energy incentive grant program under section 373 of the Energy Policy and Conservation Act (42 U.S.C. 6343) is made for the same energy savings resulting from the same innovative method.

(c) Regulatory Status- The Secretary of Energy shall--

(1) assist State regulatory commissions to identify and make changes in State regulatory programs for electric utilities to provide appropriate regulatory status for thermal energy byproduct businesses of regulated electric utilities to encourage those utilities to enter businesses making the sales referred to in subsection (a)(2); and

(2) encourage self-regulated utilities to enter businesses making the sales referred to in subsection (a)(2).

(d) Authorization of Appropriations- There are authorized to be appropriated to the Secretary of Energy such sums as are necessary for the purposes of this section.

## **SEC. 243. CLARIFYING ELECTION OF WASTE HEAT RECOVERY FINANCIAL INCENTIVES.**

Section 373(e) of the Energy Policy and Conservation Act (42 U.S.C. 6343(e)) is amended--

(1) by striking `that qualifies for' and inserting `who elects to claim'; and

(2) by inserting `from that project' after `for waste heat recovery'.

**SEC. 244. MOTOR MARKET ASSESSMENT AND COMMERCIAL AWARENESS PROGRAM.**

(a) Findings- Congress finds that--

- (1) electric motor systems account for about half of the electricity used in the United States;
- (2) electric motor energy use is determined by both the efficiency of the motor and the system in which the motor operates;
- (3) Federal Government research on motor end use and efficiency opportunities is more than a decade old; and
- (4) the Census Bureau has discontinued collection of data on motor and generator importation, manufacture, shipment, and sales.

(b) Definitions- In this section:

- (1) DEPARTMENT- The term `Department' means the Department of Energy.
- (2) INTERESTED PARTIES- The term `interested parties' includes--
  - (A) trade associations;
  - (B) motor manufacturers;
  - (C) motor end users;
  - (D) electric utilities; and
  - (E) individuals and entities that conduct energy efficiency programs.
- (3) SECRETARY- The term `Secretary' means the Secretary of Energy, in consultation with interested parties.

(c) Assessment- The Secretary shall conduct an assessment of electric motors and the electric motor market in the United States that shall--

- (1) include important subsectors of the industrial and commercial electric motor market (as determined by the Secretary), including--
  - (A) the stock of motors and motor-driven equipment;
  - (B) efficiency categories of the motor population; and
  - (C) motor systems that use drives, servos, and other control technologies;
- (2) characterize and estimate the opportunities for improvement in the energy efficiency of motor systems by market segment, including opportunities for--
  - (A) expanded use of drives, servos, and other control technologies;

(B) expanded use of process control, pumps, compressors, fans or blowers, and material handling components; and

(C) substitution of existing motor designs with existing and future advanced motor designs, including electronically commutated permanent magnet, interior permanent magnet, and switched reluctance motors; and

(3) develop an updated profile of motor system purchase and maintenance practices, including surveying the number of companies that have motor purchase and repair specifications, by company size, number of employees, and sales.

(d) Recommendations; Update- Based on the assessment conducted under subsection (c), the Secretary shall--

(1) develop--

(A) recommendations to update the detailed motor profile on a periodic basis;

(B) methods to estimate the energy savings and market penetration that is attributable to the Save Energy Now Program of the Department; and

(C) recommendations for the Director of the Census Bureau on market surveys that should be undertaken in support of the motor system activities of the Department; and

(2) prepare an update to the Motor Master+ program of the Department.

(e) Program- Based on the assessment, recommendations, and update required under subsections (c) and (d), the Secretary shall establish a proactive, national program targeted at motor end-users and delivered in cooperation with interested parties to increase awareness of--

(1) the energy and cost-saving opportunities in commercial and industrial facilities using higher efficiency electric motors;

(2) improvements in motor system procurement and management procedures in the selection of higher efficiency electric motors and motor-system components, including drives, controls, and driven equipment; and

(3) criteria for making decisions for new, replacement, or repair motor and motor system components.

## **SEC. 245. MOTOR EFFICIENCY REBATE PROGRAM.**

(a) In General- Part C of title III of the Energy Policy and Conservation Act (42 U.S.C. 6311 et seq.) is amended by adding at the end the following:

## **SEC. 347. MOTOR EFFICIENCY REBATE PROGRAM.**

^ (a) Establishment- Not later than January 1, 2010, in accordance with subsection (b), the Secretary shall establish a program to provide rebates for expenditures made by entities--

^ (1) for the purchase and installation of a new electric motor that has a nominal full load efficiency that is not less than the nominal full load efficiency as defined in--

^ (A) table 12-12 of NEMA Standards Publication MG 1-2006 for random wound motors rated 600 volts or lower; or

^ (B) table 12-13 of NEMA Standards Publication MG 1-2006 for form wound motors rated 5000 volts or lower; and

^ (2) to replace an installed motor of the entity the specifications of which are established by the Secretary by a date that is not later than 90 days after the date of enactment of this section.

^ (b) Requirements-

^ (1) APPLICATION- To be eligible to receive a rebate under this section, an entity shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary may require, including--

^ (A) demonstrated evidence that the entity purchased an electric motor described in subsection (a)(1) to replace an installed motor described in subsection (a)(2);

^ (B) demonstrated evidence that the entity--

^ (i) removed the installed motor of the entity from service; and

^ (ii) properly disposed the installed motor of the entity; and

^ (C) the physical nameplate of the installed motor of the entity.

^ (2) AUTHORIZED AMOUNT OF REBATE- The Secretary may provide to an entity that meets each requirement under paragraph (1) a rebate the amount of which shall be equal to the product obtained by multiplying--

^ (A) the nameplate horsepower of the electric motor purchased by the entity in accordance with subsection (a)(1); and

^ (B) \$25.00.

^ (3) PAYMENTS TO DISTRIBUTORS OF QUALIFYING ELECTRIC MOTORS- To assist in the payment for expenses relating to processing and motor core disposal costs, the Secretary shall provide to the distributor of an electric motor described in subsection (a)(1), the purchaser of which received a rebate under this section, an amount equal to the product obtained by multiplying--

^ (A) the nameplate horsepower of the electric motor; and

^ (B) \$5.00.

^ (c) Authorization of Appropriations- There are authorized to be appropriated to carry out this section, to remain available until expended--

- ^ (1) \$80,000,000 for fiscal year 2011;
- ^ (2) \$75,000,000 for fiscal year 2012;
- ^ (3) \$70,000,000 for fiscal year 2013;
- ^ (4) \$65,000,000 for fiscal year 2014; and
- ^ (5) \$60,000,000 for fiscal year 2015.'.

(b) Table of Contents- The table of contents of the Energy Policy and Conservation Act (42 U.S.C. prec. 6201) is amended by adding at the end of the items relating to part C of title III the following:

^ Sec. 347. Motor efficiency rebate program.'.

## **SEC. 246. CLEAN ENERGY MANUFACTURING REVOLVING LOAN FUND PROGRAM.**

The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended by inserting after section 26 the following:

## **^ SEC. 27. CLEAN ENERGY MANUFACTURING REVOLVING LOAN FUND PROGRAM.**

^ (a) Purposes- The purposes of this section are as follows:

- ^ (1) To develop the long-term manufacturing capacity of the United States.
- ^ (2) To create jobs through the retooling and expansion of manufacturing facilities to produce clean energy technology products and energy efficient products.
- ^ (3) To improve the long-term competitiveness of domestic manufacturing by increasing the energy efficiency of manufacturing facilities.
- ^ (4) To assist small and medium-sized manufacturers diversify operations to respond to emerging clean energy technology product markets.

^ (b) Definitions- In this section:

- ^ (1) CLEAN ENERGY TECHNOLOGY PRODUCT- The term ^ clean energy technology product' means technology products relating to the following:
  - ^ (A) Wind turbines.
  - ^ (B) Solar energy.
  - ^ (C) Fuel cells.
  - ^ (D) Advanced batteries, battery systems, or storage devices.

- ˆ (E) Biomass equipment.
- ˆ (F) Geothermal equipment.
- ˆ (G) Advanced biofuels.
- ˆ (H) Ocean energy equipment.
- ˆ (I) Carbon capture and storage.
- ˆ (J) Such other products as the Secretary determines--
  - ˆ (i) relate to the production, use, transmission, storage, control, or conservation of energy;
  - ˆ (ii) reduce greenhouse gas concentrations;
  - ˆ (iii) achieve the earliest and maximum emission reductions within a reasonable period per dollar invested;
  - ˆ (iv) result in the fewest non-greenhouse gas environmental impacts; and
  - ˆ (v) either--

- ˆ (I) reduce the need for additional energy supplies by--

- ˆ (aa) using existing energy supplies with greater efficiency; or

- ˆ (bb) by transmitting, distributing, or transporting energy with greater effectiveness through the infrastructure of the United States; or

- ˆ (II) diversity the sources of energy supply of the United States--

- ˆ (aa) to strengthen energy security; and

- ˆ (bb) to increase supplies with a favorable balance of environmental effects if the entire technology system is considered.

- ˆ (2) ENERGY EFFICIENT PRODUCT- The term 'energy efficient product' means a product that, as determined by the Secretary in consultation with the Secretary of Energy--

- ˆ (A) consumes significantly less energy than the average amount that all similar products consumed on the day before the date of the enactment of this Act; or

- ˆ (B) is a component, system, or group of subsystems that is designed, developed, and validated to optimize the energy efficiency of a product.

- ˆ (3) HOLLINGS MANUFACTURING EXTENSION CENTER- The term 'Hollings Manufacturing Extension Center' means a center established under section 25.

^ (4) HOLLINGS MANUFACTURING PARTNERSHIP PROGRAM- The term 'Hollings Manufacturing Partnership Program' means the program established under sections 25 and 26.

^ (5) PROGRAM- The term 'Program' means the grant program established pursuant to subsection (c)(1).

^ (6) REVOLVING LOAN FUND- The term 'revolving loan fund' means a revolving loan fund described in subsection (d).

^ (7) SECRETARY- Except as otherwise provided, the term 'Secretary' means the Secretary of Commerce.

^ (8) SMALL OR MEDIUM-SIZED MANUFACTURER- The term 'small or medium-sized manufacturer' means a manufacturer that employs fewer than 500 full-time equivalent employees at a manufacturing facility that is not owned or controlled by an automobile manufacturer.

^ (c) Grant Program-

^ (1) ESTABLISHMENT- Not later than 120 days after the date of the enactment of this section, the Secretary shall establish a program under which the Secretary shall award grants to States to establish revolving loan funds to provide loans to small and medium-sized manufacturers to finance the cost of--

^ (A) reequipping, expanding, or establishing (including applicable engineering costs) a manufacturing facility in the United States to produce--

^ (i) clean energy technology products;

^ (ii) energy efficient products; or

^ (iii) integral component parts of clean energy technology products or energy efficient products; or

^ (B) reducing the energy intensity or greenhouse gas production of a manufacturing facility in the United States, including using energy intensive feedstocks.

^ (2) MAXIMUM AMOUNT- The Secretary may not award a grant under the Program in an amount that exceeds \$500,000,000 in any fiscal year.

^ (d) Criteria for Awarding Grants-

^ (1) MATCHING FUNDS- The Secretary may make a grant to a State under the Program only if the State agrees to ensure that for each loan provided by the State under the Program, not less than 20 percent of the amount of each loan will come from a non-Federal source.

^ (2) ADMINISTRATIVE COSTS- A State receiving a grant under the Program may only use such amount of the grant for the costs of administering the revolving loan fund as the Secretary shall provide in regulations.

^ (3) APPLICATION- Each State seeking a grant under the Program shall submit to the Secretary an application therefor in such form and in such manner as the Secretary considers appropriate.

^ (4) EVALUATION- The Secretary shall evaluate and prioritize an application submitted by a State for a grant under the Program on the basis of--

^ (A) the description of the revolving loan fund to be established with the grant and how such revolving loan fund will achieve the purposes described in subsection (a);

^ (B) whether the State will be able to provide loans from the revolving loan fund to small or medium-sized manufacturers before the date that is 120 days after the date on which the State receives the grant;

^ (C) a description of how the State will administer the revolving loan fund in coordination with other State and Federal programs, including programs administered by the Assistant Secretary for Economic Development;

^ (D) a description of the actual or potential clean energy manufacturing supply chains, including significant component parts, in the region served by the revolving loan fund;

^ (E) how the State will target the provision of loans under the Program to manufacturers located in regions characterized by high unemployment and sudden and severe economic dislocation, in particular where mass layoffs have resulted in a precipitous increase in unemployment;

^ (F) the availability of a skilled manufacturing workforce in the region served by the revolving loan fund and the capacity of the region's workforce and education systems to provide pathways for unemployed or low-income workers into skilled manufacturing employment;

^ (G) a description of how the State will target loans to small or medium-sized manufacturers who are--

^ (i) manufacturers of automobile components; and

^ (ii) either--

^ (I) increasing the energy efficiency of their manufacturing facilities; or

^ (II) retooling to manufacture clean energy products or energy efficient products, including manufacturing components to improve the compliance of an automobile with fuel economy standards prescribed under section 32902 of title 49, United States Code;

^ (H) a description of how the State will use the loan fund to achieve the earliest and maximum greenhouse gas emission reductions within a

reasonable period of time per dollar invested and with the fewest non-greenhouse gas environmental impacts; and

^ (I) such other factors as the Secretary considers appropriate to ensure that grants awarded under the Program effectively and efficiently achieve the purposes described in subsection (a).

^ (e) Revolving Loan Funds-

^ (1) IN GENERAL- A State receiving a grant under the Program shall establish, maintain, and administer a revolving loan fund in accordance with this subsection.

^ (2) DEPOSITS- A revolving loan fund shall consist of the following:

^ (A) Amounts from grants awarded under this section.

^ (B) All amounts held or received by the State incident to the provision of loans described in subsection (f), including all collections of principal and interest.

^ (3) EXPENDITURES- Amounts in the revolving loan fund shall be available for the provision and administration of loans in accordance with subsection (f).

^ (4) LIMITATION- No funds provided pursuant to this section may be leveraged through use of tax-exempt bonding authority by a State or a political subdivision of a State.

^ (f) Loans-

^ (1) IN GENERAL- A State receiving a grant under this section shall use the amount in the revolving loan fund to provide loans to small and medium-sized manufacturers as described in subsection (c)(1).

^ (2) LOAN TERMS AND CONDITIONS- The following shall apply with respect to loans provided under paragraph (1):

^ (A) TERMS- Loans shall have a term determined by the State receiving the grant as follows:

^ (i) For fixed assets, the term of the loan shall not exceed the useful life of the asset and shall be less than 15 years.

^ (ii) For working capital, the term of the loan shall not exceed 36 months.

^ (B) INTEREST RATES- Loans shall bear an interest rate determined by the State receiving the grant as follows:

^ (i) The interest rate shall enable the loan recipient to accomplish the activities described in subparagraphs (A) and (B) of subsection (c)(1).

^ (ii) The interest rate may be set below-market interest rates.

- ˘ (iii) The interest rate may not be less than zero percent.
- ˘ (iv) The interest rate may not exceed the current prime rate plus 500 basis points.

˘ (C) DESCRIPTION AND BUDGET FOR USE OF LOAN FUNDS- Each recipient of a loan from a State under the Program shall develop and submit to the State and the Secretary a description and budget for the use of loan amounts, including a description of the following:

- ˘ (i) Any new business expected to be developed with the loan.
- ˘ (ii) Any improvements to manufacturing operations to be developed with the loan.
- ˘ (iii) Any technology expected to be commercialized with the loan.

˘ (D) PRIORITY IN REVIEW AND PREFERENCE IN SELECTION FOR CERTAIN LOAN APPLICANTS-

˘ (i) REVIEW- In reviewing applications submitted by small or medium-sized manufacturers for a loan, a recipient of a grant under the Program shall give priority to small or medium-sized manufacturers described in clause (iii).

˘ (ii) SELECTION- In selecting small or medium-sized manufacturers to receive a loan, a recipient of a grant under the Program shall give preference to small or medium-sized manufacturers described in clause (iii).

˘ (iii) PRIORITY AND PREFERRED SMALL OR MEDIUM-SIZED MANUFACTURERS- A small or medium-sized manufacturer described in this clause is a manufacturer that--

˘ (I) is certified by a Hollings Manufacturing Extension Center or a manufacturing-related local intermediary designated by the Secretary for purposes of providing such certification; or

˘ (II) provides individuals employed at the manufacturing facilities of the manufacturer--

˘ (aa) pay in amounts that are, on average, equal to or more than the average wage of an individual working in a manufacturing facility in the State; and

˘ (bb) health benefits.

˘ (iv) CERTIFICATION BY HOLLINGS MANUFACTURING EXTENSION CENTER- A Hollings Manufacturing Extension Center or other entity designated by the Secretary for purposes of providing certification under clause (iii)(I) shall only certify applications for a loan after carrying out a qualitative and quantitative review of the applicant's business strategy, manufacturing operations, and technological ability to contribute to the purposes described in subsection (a).

˘ (E) REPAYMENT UPON RELOCATION OUTSIDE UNITED STATES-

˘ (i) IN GENERAL- If a person receives a loan under paragraph (1) to finance the cost of reequipping, expanding, or establishing a manufacturing facility as described in subsection (c)(1)(A) or to reduce the energy intensity of a manufacturing facility and such person relocates the production activities of such manufacturing facility outside the United States during the term of the loan, the recipient shall repay such loan in full with interest as described in clause (ii) and for a duration described in clause (iii).

˘ (ii) PAYMENT OF INTEREST- Any amount owed by the recipient of a loan under paragraph (1) who is required to repay the loan under clause (i) shall bear interest at a penalty rate determined by the Secretary to deter recipients of loans under paragraph (1) from relocating production activities as described in clause (i).

˘ (iii) PERIOD OF REPAYMENT- Repayment of a loan under clause (i) shall be for a duration determined by the Secretary.

˘ (F) COMPLIANCE WITH WAGE RATE REQUIREMENTS- Each recipient of a loan shall undertake and agree to incorporate or cause to be incorporated into all contracts for construction, alteration or repair, which are paid for in whole or in part with funds obtained pursuant to such loan, a requirement that all laborers and mechanics employed by contractors and subcontractors performing construction, alteration or repair shall be paid wages at rates not less than those determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code (known as the 'Davis-Bacon Act'), to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the same locality in which the work is to be performed. The Secretary of Labor shall have, with respect to the labor standards specified in this subparagraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 Fed. Reg. 3176; 64 Stat. 1267) and section 3145 of title 40, United States Code.

˘ (G) ANNUAL REPORTS BY LOAN RECIPIENTS- Each recipient of a loan issued by a State under paragraph (1) shall, not less frequently than once each year during the term of the loan, submit to such State a report containing such information as the Secretary may specify for purposes of the Program, including information that the Secretary can use to determine whether a recipient of a loan is required to repay the loan under subparagraph (E).

˘ (3) ANNUAL REPORTS BY GRANT RECIPIENTS- Each recipient of a grant under the Program shall, not less frequently than once each year, submit to the Secretary a report on the impact of each loan issued by the State under the Program and the aggregate impact of all loans so issued, including the following:

˘ (A) The sales increased or retained.

- ^ (B) Cost savings or costs avoided.
- ^ (C) Additional investment encouraged.
- ^ (D) Jobs created or retained.

^ (g) Authorization of Appropriations- There is authorized to be appropriated to carry out this section \$15,000,000,000 for each of fiscal years 2010 and 2011.'

## **SEC. 247. CLEAN ENERGY AND EFFICIENCY MANUFACTURING PARTNERSHIPS.**

(a) Hollings Manufacturing Partnership Program- Section 25(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(b)) is amended--

(1) in paragraph (2), by striking `and' at the end;

(2) in paragraph (3), by striking the period at the end and inserting `; and'; and

(3) by adding at the end the following:

^ (4) the establishment of a clean energy manufacturing supply chain initiative --

^ (A) to support manufacturers in their identification of and diversification to new markets, including support for manufacturers transitioning to the use of clean energy supply chains;

^ (B) to assist manufacturers improve their competitiveness by reducing energy intensity and greenhouse gas production, including the use of energy intensive feedstocks;

^ (C) to increase adoption and implementation of innovative manufacturing technologies;

^ (D) to coordinate and leverage the expertise of the National Laboratories and Technology Centers and the Industrial Assessment Centers of the Department of Energy to meet the needs of manufacturers; and

^ (E) to identify, assist, and certify manufacturers seeking loans under section 27(e)(1).'

(b) Reduction in Cost Share Requirements- Section 25(c) of such Act (15 U.S.C. 278k(c)) is amended--

(1) in paragraph (1), by inserting `or as provided in paragraph (5)' after `not to exceed six years';

(2) in paragraph (3)(B), by striking `not less than 50 percent of the costs incurred for the first 3 years and an increasing share for each of the last 3 years' and inserting `50 percent of the costs incurred or such lesser

percentage of the costs incurred as determined appropriate by the Secretary by rule'; and

(3) in paragraph (5)--

(A) by striking `at declining levels';

(B) by striking `one third' and inserting `50 percent'; and

(C) by inserting `, or such lesser percentage as determined appropriate by the Secretary by rule,' after `maintenance costs'.

(c) Authorization of Appropriations- There are authorized to be appropriated to the Secretary of Commerce for the Hollings Manufacturing Partnership Program authorized under sections 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k) and for the provision of assistance under section 26 of such Act (15 U.S.C. 278l)--

(1) \$200,000,000 for fiscal year 2010;

(2) \$250,000,000 for fiscal year 2011;

(3) \$300,000,000 for fiscal year 2012;

(4) \$350,000,000 for fiscal year 2013; and

(5) \$400,000,000 for fiscal year 2014.

## **SEC. 248. TECHNICAL AMENDMENTS.**

(a) Amendment to National Institute of Standards and Technology Act- Section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k(b)) is amended--

(1) in subsection (a), by striking `(hereafter in this Act referred to as the `Centers')'; and

(2) by adding at the end the following:

(g) Designation-

(1) HOLLINGS MANUFACTURING PARTNERSHIP PROGRAM- The program under this section shall be known as the `Hollings Manufacturing Partnership Program'.

(2) HOLLINGS MANUFACTURING EXTENSION CENTERS- The Regional Centers for the Transfer of Manufacturing Technology created and supported under subsection (a) shall be known as the `Hollings Manufacturing Extension Centers' (in this Act referred to as the `Centers').

(b) Amendment to Consolidated Appropriations Act, 2005- Division B of title II of the Consolidated Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2879; 15 U.S.C. 278k note) is amended under the heading `INDUSTRIAL TECHNOLOGY

SERVICES' by striking ` 2007: *Provided further, That*' and all that follows through ` Extension Centers.' and inserting ` 2007.'.

### **Subtitle E--Improvements in Energy Savings Performance Contracting**

## **SEC. 251. ENERGY SAVINGS PERFORMANCE CONTRACTS.**

(a) Competition Requirements for Task or Delivery Orders Under Energy Savings Performance Contracts-

(1) COMPETITION REQUIREMENTS- Subsection (a) of section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)) is amended by adding at the end the following paragraph:

` (3)(A) The head of a Federal agency may issue a task or delivery order under an energy savings performance contract by--

` (i) notifying all contractors that have received an award under such contract that the agency proposes to discuss energy savings performance services for some or all of its facilities and, following a reasonable period of time to provide a proposal in response to the notice, soliciting an expression of interest in performing site surveys or investigations and feasibility designs and studies and the submission of qualifications from such contractors, and including in such notice summary information concerning energy use for any facilities that the agency has specific interest in including in such contract;

` (ii) reviewing all expressions of interest and qualifications submitted pursuant to the notice under clause (i);

` (iii) selecting two or more contractors (from among those reviewed under clause (ii)) to conduct discussions concerning the contractors' respective qualifications to implement potential energy conservation measures, including requesting references demonstrating experience on similar efforts and the resulting energy savings of such similar efforts, and providing an opportunity for a post-award debriefing to all contractors that submitted expressions of interest and qualifications under clause (ii) pursuant to the notice;

` (iv) selecting and authorizing--

` (I) more than one contractor (from among those selected under clause (iii)) to conduct site surveys, investigations, feasibility designs and studies or similar assessments for the energy savings performance contract services (or for discrete portions of such services), for the purpose of allowing each such contractor to submit a firm, fixed-price proposal to implement specific energy conservation measures; or

` (II) one contractor (from among those selected under clause (iii)) to conduct a site survey, investigation, a feasibility design and study or similar for the purpose of allowing the contractor to submit a firm, fixed-price proposal to implement specific energy conservation measures;

` (v) negotiating a task or delivery order for energy savings performance contracting services with the contractor or contractors selected under clause (iv) based on the energy conservation measures identified; and

` (vi) issuing a task or delivery order for energy savings performance contracting services to such contractor or contractors.

` (B) The issuance of a task or delivery order for energy savings performance contracting services pursuant to subparagraph (A) is deemed to satisfy the task and delivery order competition requirements in section 2304c(d) of title 10, United States Code, and section 303J(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253j(d)).

` (C) The Secretary may issue guidance as necessary to agencies issuing task or delivery orders pursuant to subparagraph (A).'

(2) EFFECTIVE DATE- The amendment made by paragraph (1) is inapplicable to task or delivery orders issued before the date of enactment of this section.

(b) Inclusion of Thermal Renewable Energy- Section 203 of the Energy Policy Act of 2005 (42 U.S.C. 15852) is amended--

(1) in subsection (a), by striking `electric'; and

(2) in subsection (b)(2), by inserting `or thermal' after `means electric'.

(c) Credit for Renewable Energy Produced and Used on Site- Subsection (c) of section 203 of the Energy Policy Act of 2005 (42 U.S.C. 15852) is amended to read as follows:

` (c) Calculation- Renewable energy produced at a Federal facility, on Federal lands, or on Indian lands (as defined in title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.)) shall be calculated separately from renewable energy consumed at a Federal facility, and each may be used to comply with the consumption requirement under subsection (a).'

(d) Financing Flexibility- Section 801(a)(2)(E) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)(E)) is amended by striking `In' and inserting `Notwithstanding any other provision of law, in'.

### **Subtitle F--Public Institutions**

## **SEC. 261. PUBLIC INSTITUTIONS.**

Section 399A of the Energy Policy and Conservation Act (42 U.S.C. 6371h-1) is amended--

(1) in subsection (a)(5), by striking `or a designee' and inserting `an Indian tribe, a not-for-profit hospital or not-for-profit inpatient health care facility, or a designated agent';

(2) in subsection (c)(1), by striking subparagraph (C);

(3) in subsection (f)(3)(A), by striking ` \$1,000,000' and inserting ` \$2,500,000'; and

(4) in subsection (i)(1), by striking ` \$250,000,000 for each of fiscal years 2009 through 2013' and inserting ` \$250,000,000 for each of fiscal years 2010 through 2015'.

## **SEC. 262. COMMUNITY ENERGY EFFICIENCY FLEXIBILITY.**

Section 545(b)(3) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17155(b)(3)) is amended--

(1) by striking ` Indian tribe may use' and all that follows through ` for administrative expenses' and inserting ` Indian tribe may use for administrative expenses';

(2) by striking subparagraphs (B) and (C);

(3) by redesignating the remaining clauses (i) and (ii) as subparagraphs (A) and (B), respectively and adjusting the margin of those subparagraphs accordingly; and

(4) by striking the semicolon at the end and inserting a period.

## **SEC. 263. SMALL COMMUNITY JOINT PARTICIPATION.**

(a) Section 541(3)(A) of the Energy Independence and Security Act of 2007 is amended in clause (i) by striking ` and' at the end of subclause (II), in clause (ii) by striking the period at the end of subclause (II) and inserting ` ; or', and by inserting the following new clause (iii):

` (iii) a group of adjacent, contiguous, or geographically proximate units of local government that reach agreement to act jointly for purposes of this section and that represent a combined population of not less than 35,000.'.

(b) Section 541(3)(B) of the Energy Independence and Security Act of 2007 is amended in clause (i) by striking ` or', in clause (ii) by striking the period at the end and inserting ` ; or', and by inserting the following new clause (iii):

` (iii) a group of adjacent, contiguous, or geographically proximate units of local government that reach agreement to act jointly for purposes of this section and that represent a combined population of not less than 50,000.'.

## **SEC. 264. LOW INCOME COMMUNITY ENERGY EFFICIENCY PROGRAM.**

(a) In General- The Secretary of Energy is authorized to make grants to private, nonprofit, mission-driven community development organizations including community development corporations and community development financial institutions to provide financing to businesses and projects that improve energy efficiency; identify and develop alternative, renewable, and distributed energy

supplies; provide technical assistance and promote job and business opportunities for low-income residents; and increase energy conservation in low income rural and urban communities.

(b) Grants- The purpose of such grants is to increase the flow of capital and benefits to low income communities, minority-owned and woman-owned businesses and entrepreneurs and other projects and activities located in low income communities in order to reduce environmental degradation, foster energy conservation and efficiency and create job and business opportunities for local residents. The Secretary may make grants on a competitive basis for--

- (1) investments that develop alternative, renewable, and distributed energy supplies;
- (2) capitalizing loan funds that lend to energy efficiency projects and energy conservation programs;
- (3) technical assistance to plan, develop, and manage an energy efficiency financing program; and
- (4) technical and financial assistance to assist small-scale businesses and private entities develop new renewable and distributed sources of power or combined heat and power generation.

(c) Authorization of Appropriations- For the purposes of this section there is authorized to be appropriated \$50,000,000 for each of the fiscal years 2010 through 2015.

## **SEC. 265. CONSUMER BEHAVIOR RESEARCH.**

(a) In General- The Secretary of Energy is authorized to establish a research program to identify the factors affecting consumer actions to conserve energy and make improvements in energy efficiency. Through the program the Secretary will make grants to public and private institutions of higher education to study the effects of consumer behavior on total energy use; potential energy savings from changes in consumption habits; the ability to reduce greenhouse gas emissions through changes in energy consumption habits; increase public awareness of Federal climate adaptation and mitigation programs; and the potential for alterations in consumer behavior to further American energy independence. Grants may also fund projects that evaluate or inform public knowledge of the effects of energy consumption habits on these topics.

(b) Grants- The purpose of the program is to provide grants to public and private institutions of higher education to carry out projects which will improve understanding of the effects of consumer behavior on energy consumption and conservation. The Secretary shall make grants on a competitive basis for--

- (1) studies of the effects of consumer habits on energy consumption and conservation;
- (2) development of strategies that communicate the importance of energy efficiency and conservation to consumers;

- (3) identification of best practices to improve consumer energy use habits;
- (4) education programs that inform consumers about the implications of consumption habits on energy use and climate change;
- (5) evaluation of the effectiveness of programs designed to promote public awareness of Federal Government climate adaptation and mitigation activities; and
- (6) other projects that advance the mission of the program.

(c) Report- The Secretary of Energy shall provide Congress with a report on progress towards establishing the program within 120 days after the date of enactment of this Act.

(d) Authorization of Appropriations- There are authorized to be appropriated such sums as may be necessary to carry out this section.

#### **Subtitle G--Miscellaneous**

### **SEC. 271. ENERGY EFFICIENT INFORMATION AND COMMUNICATIONS TECHNOLOGIES.**

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended to read as follows:

### **SEC. 543. ENERGY EFFICIENT INFORMATION AND COMMUNICATIONS TECHNOLOGIES.**

(a) In General- Not later than 1 year after the date of enactment of the American Clean Energy and Security Act of 2009, each Federal agency shall collaborate with the Director of the Office of Management and Budget (referred to in this section as the 'Director') to create an implementation strategy, including best practices and measurement and verification techniques, for the purchase and use of energy efficient information and communications technologies and practices. Wherever possible, existing standards, specifications, performance metrics, and best management practices that have been or are being developed in open collaboration and with broad stakeholder input and review should be incorporated. In addition, agency strategies shall be flexible, cost-effective, and based on the specific operating requirements and statutory mission of each agency.

(b) Energy Efficient Information and Communications Technologies- In developing an implementation strategy, each agency shall--

(1) consider information and communications technologies and infrastructure, including, but not limited to, advanced metering infrastructure, information and communications technology services and products, efficient data center strategies, applications modernization and rationalization, building systems energy efficiency, and telework; and

(2) ensure that agencies are eligible to realize the savings and rewards brought about through increased efficiencies.

^ (c) Performance Goals- Not later than 6 months after the date of enactment of the American Clean Energy and Security Act of 2009, the Director shall establish performance goals for evaluating the efforts of the agencies in improving the maintenance, purchase and use of energy efficiency of information and communications technology systems. These performance goals should measure information technology costs over a specific time horizon (3 to 5 years), providing a complete picture of all costs, including energy.

^ (d) Report- Not later than 18 months after the date of enactment of the American Clean Energy and Security Act of 2009, and annually thereafter, the Director shall submit a report to Congress on--

^ (1) the progress of each agency in reducing energy use through its implementation strategy; and

^ (2) new and emerging technologies that would help achieve increased energy efficiency.'.

## **SEC. 272. NATIONAL ENERGY EFFICIENCY GOALS.**

(a) Goals- The energy efficiency goals of the United States are--

(1) to achieve an improvement in the overall energy productivity of the United States (measured in gross domestic product per unit of energy input) of at least 2.5 percent per year by the year 2012; and

(2) to maintain that annual rate of improvement each year through 2030.

(b) Strategic Plan-

(1) IN GENERAL- Not later than 1 year after the date of enactment of this Act, the Secretary of Energy (referred to in this section as the `Secretary'), in cooperation with the Administrator and the heads of other appropriate Federal agencies, shall develop a strategic plan to achieve the national goals for improvement in energy productivity established under subsection (a).

(2) PUBLIC INPUT AND COMMENT- The Secretary shall develop the plan in a manner that provides appropriate opportunities for public input and comment.

(c) Plan Contents- The strategic plan shall--

(1) identify future regulatory, funding, and policy priorities that would assist the United States in meeting the national goals;

(2) include energy savings estimates for each sector; and

(3) include data collection methodologies and compilations used to establish baseline and energy savings data.

(d) Plan Updates-

(1) IN GENERAL- The Secretary shall--

(A) update the strategic plan biennially; and

(B) include the updated strategic plan in the national energy policy plan required by section 801 of the Department of Energy Organization Act (42 U.S.C. 7321).

(2) CONTENTS- In updating the plan, the Secretary shall--

(A) report on progress made toward implementing efficiency policies to achieve the national goals established under subsection (a); and

(B) verify, to the maximum extent practicable, energy savings resulting from the policies.

(e) Report to Congress and the Public- The Secretary shall submit to Congress, and make available to the public, the initial strategic plan developed under subsection (b) and each updated plan.

### **SEC. 273. AFFILIATED ISLAND ENERGY INDEPENDENCE TEAM.**

(a) Definitions- In this section:

(1) AFFILIATED ISLAND- The term `affiliated island' means--

(A) the Commonwealth of Puerto Rico;

(B) Guam;

(C) American Samoa;

(D) the Commonwealth of the Northern Mariana Islands;

(E) the Federated States of Micronesia;

(F) the Republic of the Marshall Islands;

(G) the Republic of Palau; and

(H) the United States Virgin Islands.

(2) SECRETARY- The term `Secretary' means the Secretary of Energy (acting through the Assistant Secretary of Energy Efficiency and Renewable Energy), in consultation with the Secretary of the Interior and the Secretary of State.

(3) TEAM- The term `team' means the team established by the Secretary under subsection (b).

(b) Establishment- As soon as practicable after the date of enactment of this Act, the Secretary shall assemble a team of technical, policy, and financial experts to address the energy needs of each affiliated island--

(1) to reduce the reliance and expenditure of each affiliated island on imported fossil fuels;

(2) to increase the use by each affiliated island of indigenous, nonfossil fuel energy sources;

(3) to improve the performance of the energy infrastructure of the affiliated island through projects--

(A) to improve the energy efficiency of power generation, transmission, and distribution; and

(B) to increase consumer energy efficiency;

(4) to improve the performance of the energy infrastructure of each affiliated island through enhanced planning, education, and training;

(5) to adopt research-based and public-private partnership-based approaches as appropriate;

(6) to stimulate economic development and job creation; and

(7) to enhance the engagement by the Federal Government in international efforts to address island energy needs.

(c) Duties of Team-

(1) ENERGY ACTION PLANS-

(A) IN GENERAL- In accordance with subparagraph (B), the team shall provide technical, programmatic, and financial assistance to each utility of each affiliated island, and the government of each affiliated island, as appropriate, to develop and implement an energy Action Plan for each affiliated island to reduce the reliance of each affiliated island on imported fossil fuels through increased efficiency and use of indigenous clean-energy resources.

(B) REQUIREMENTS- Each Action Plan described in subparagraph (A) for each affiliated island shall require and provide for--

(i) the conduct of 1 or more studies to assess opportunities to reduce fossil fuel use through--

(I) the improvement of the energy efficiency of the affiliated island; and

(II) the increased use by the affiliated island of indigenous clean-energy resources;

(ii) the identification and implementation of the most cost-effective strategies and projects to reduce the dependence of the affiliated island on fossil fuels;

(iii) the promotion of education and training activities to improve the capacity of the local utilities of the affiliated island, and the government of the affiliated island, as appropriate, to plan for, maintain, and operate the energy infrastructure of the affiliated island through the use of local or regional institutions, as appropriate;

(iv) the coordination of the activities described in clause (iii) to leverage the expertise and resources of international entities, the Department of Energy, the Department of the Interior, and the regional utilities of the affiliated island;

(v) the identification, and development, as appropriate, of research-based and private-public, partnership approaches to implement the Action Plan; and

(vi) any other component that the Secretary determines to be necessary to reduce successfully the use by each affiliated island of fossil fuels.

(2) REPORTS TO SECRETARY- Not later than 1 year after the date on which the Secretary establishes the team and biennially thereafter, the team shall submit to the Secretary a report that contains a description of the progress of each affiliated island in--

(A) implementing the Action Plan of the affiliated island developed under paragraph (1)(A); and

(B) reducing the reliance of the affiliated island on fossil fuels.

(d) Use of Regional Utility Organizations- To provide expertise to affiliated islands to assist the affiliated islands in meeting the purposes of this section, the Secretary shall consider--

(1) including regional utility organizations in the establishment of the team; and

(2) providing assistance through regional utility organizations.

(e) Annual Reports to Congress- Not later than 30 days after the date on which the Secretary receives a report submitted by the team under subsection (c)(2), the Secretary shall submit to the appropriate committees of Congress a report that contains a summary of the report of the team.

(f) Authorization of Appropriations- There are authorized to be appropriated such sums as are necessary to carry out this section.

## **SEC. 274. PRODUCT CARBON DISCLOSURE PROGRAM.**

(a) EPA Study- The Administrator shall conduct a study to determine the feasibility of establishing a national program for measuring, reporting, publicly disclosing, and labeling products or materials sold in the United States for their carbon content, and shall, not later than 18 months after the date of enactment of this Act, transmit a report to Congress which shall include the following:

(1) A determination of whether a national product carbon disclosure program and labeling program would be effective in achieving the intended goals of achieving greenhouse gas reductions and an examination of existing programs globally and their strengths and weaknesses.

- (2) Criteria for identifying and prioritizing sectors and products and processes that should be covered in such program or programs.
- (3) An identification of products, processes, or sectors whose inclusion could have a substantial carbon impact (prioritizing industrial products such as iron and steel, aluminum, cement, chemicals, and paper products, and also including food, beverage, hygiene, cleaning, household cleaners, construction, metals, clothing, semiconductor, and consumer electronics).
- (4) Suggested methodology and protocols for measuring the carbon content of the products across the entire carbon lifecycle of such products for use in a carbon disclosure program and labeling program.
- (5) A review of existing greenhouse gas product accounting standards, methodologies, and practices including the Greenhouse Gas Protocol, ISO 14040/44, ISO 14067, and Publically Available Specification 2050, and including a review of the strengths and weaknesses of each.
- (6) A survey of secondary databases including the Manufacturing Energy Consumption Survey and evaluate the quality of data for use in a product carbon disclosure program and product carbon labeling program and an identification of gaps in the data relative to the potential purposes of a national product carbon disclosure program and product carbon labeling program and development of recommendations for addressing these data gaps.
- (7) An assessment of the utility of comparing products and the appropriateness of product carbon standards.
- (8) An evaluation of the information needed on a label for clear and accurate communication, including what pieces of quantitative and qualitative information needs to be disclosed.
- (9) An evaluation of the appropriate boundaries of the carbon lifecycle analysis for different sectors and products.
- (10) An analysis of whether default values should be developed for products whose producer does not participate in the program or does not have data to support a disclosure or label and determine best ways to develop such default values.
- (11) A recommendation of certification and verification options necessary to assure the quality of the information and avoid greenwashing or the use of insubstantial or meaningless environmental claims to promote a product.
- (12) An assessment of options for educating consumers about product carbon content and the product carbon disclosure program and product carbon labeling program.
- (13) An analysis of the costs and timelines associated with establishing a national product carbon disclosure program and product carbon labeling program, including options for a phased approach. Costs should include those for businesses associated with the measurement of carbon footprints and those associated with creating a product carbon label and managing and

operating a product carbon labeling program, and options for minimizing these costs.

(14) An evaluation of incentives (such as financial incentives, brand reputation, and brand loyalty) to determine whether reductions in emissions can be accelerated through encouraging more efficient manufacturing or by encouraging preferences for lower-emissions products to substitute for higher-emissions products whose level of performance is no better.

(b) Development of National Carbon Disclosure Program- Upon conclusion of the study, and not more than 36 months after the date of enactment of this Act, the Administrator shall establish a national product carbon disclosure program, participation in which shall be voluntary, and which may involve a product carbon label with broad applicability to the wholesale and consumer markets to enable and encourage knowledge about carbon content by producers and consumers and to inform efforts to reduce energy consumption (carbon dioxide equivalent emissions) nationwide. In developing such a program, the Administrator shall--

(1) consider the results of the study conducted under subsection (a);

(2) consider existing and planned programs and proposals and measurement standards (including the Publicly Available Specification 2050, standards to be developed by the World Resource Institute/World Business Council for Sustainable Development, the International Standards Organization, and the bill AB19 pending in the California legislature);

(3) consider the compatibility of a national product carbon disclosure program with existing programs;

(4) utilize incentives and other means to spur the adoption of product carbon disclosure and product carbon labeling;

(5) develop protocols and parameters for a product carbon disclosure program, including a methodology and formula for assessing, verifying, and potentially labeling a product's greenhouse gas content, and for data quality requirements to allow for product comparison;

(6) create a means to--

(A) document best practices;

(B) ensure clarity and consistency;

(C) work with suppliers, manufacturers, and retailers to encourage participation;

(D) ensure that protocols are consistent and comparable across like products; and

(E) evaluate the effectiveness of the program;

(7) make publicly available information on product carbon content to ensure transparency;

(8) provide for public outreach, including a consumer education program to increase awareness;

(9) develop training and education programs to help businesses learn how to measure and communicate their carbon footprint and easy tools and templates for businesses to use to reduce cost and time to measure their products' carbon lifecycle;

(10) consult with the Secretary of Energy, the Secretary of Commerce, the Federal Trade Commission, and other Federal agencies, as necessary;

(11) gather input from stakeholders through consultations, public workshops or hearings with representatives of consumer product manufacturers, consumer groups, and environmental groups;

(12) utilize systems for verification and product certification that will ensure that claims manufacturers make about their products are valid;

(13) create a process for reviewing the accuracy of product carbon label information and protecting the product carbon label in the case of a change in the product's energy source, supply chain, ingredients, or other factors, and specify the frequency to which data should be updated; and

(14) develop a standardized, easily understandable carbon label, if appropriate, and create a process for responding to inaccuracies and misuses of such a label.

(c) Report to Congress- Not later than 5 years after the program is established pursuant to subsection (b), the Administrator shall report to Congress on the effectiveness and impact of the program, the level of voluntary participation, and any recommendations for additional measures.

(d) Definitions- As used in this section--

(1) the term `carbon content' means the amount of greenhouse gas emissions and their warming impact on the atmosphere expressed in carbon dioxide equivalent associated with a product's value chain;

(2) the term `carbon footprint' means the level of greenhouse gas emissions produced by a particular activity, service, or entity; and

(3) the term `carbon lifecycle' means the greenhouse gas emissions that are released as part of the processes of creating, producing, processing or manufacturing, modifying, transporting, distributing, storing, using, recycling, or disposing of goods and services.

(e) Authorization of Appropriations- There is authorized to be appropriated to the Administrator \$5,000,000 for the study required by subsection (a) and \$25,000,000 for each of fiscal years 2010 through 2025 for the program required under subsection (b).

## **SEC. 275. INDUSTRIAL ENERGY EFFICIENCY EDUCATION AND TRAINING INITIATIVE.**

(a) In General- The Secretary of Energy shall carry out a national education and awareness program for the purpose of informing building, facility, and industrial plant owners and managers and decisionmakers, government leaders, and industry leaders about the large energy-saving potential of greater use of mechanical insulation, and other benefits.

(b) Purpose and Goals-

(1) PURPOSE- The purpose of the initiative shall be to increase the energy efficiency of the commercial and industrial sectors through an ongoing program that will include--

(A) education and training sessions;

(B) Web-based information; and

(C) advertising.

(2) GOALS- The goals of the initiative shall be to--

(A) educate and motivate commercial building owners and industrial facility managers to utilize mechanical insulation in new and existing facilities;

(B) preserve and create jobs while reducing energy and greenhouse gas emissions;

(C) create a safer working environment and make businesses more competitive in a global economy; and

(D) motivate and empower the industry to make better use of mechanical insulation through awareness, education, and training.

(c) Report- Not later than July 1, 2013, the Secretary shall submit to Congress a report describing the extent by which the initiative has been enacted and the actual and projected effectiveness of the program under this section, including the energy efficiency, greenhouse gas emissions reductions, cost savings, and safety benefits at manufacturing facilities, power plants, refineries, hospitals, universities, government buildings, and other commercial and industrial locations.

(d) Authorization of Appropriations- There are authorized to be appropriated \$3,500,000 for each of fiscal years 2010 through 2014 to carry out this section. The Secretary may enter into a cooperative agreement, including grant funding, with an industry association and union working collaboratively and having expertise on the installation, maintenance, measure of efficiencies and standards, and certification of mechanical insulation in buildings and facilities.

(e) Termination of Authority- The program carried out under this section shall terminate on December 31, 2014.

**SEC. 276. SENSE OF CONGRESS.**

It is the sense of Congress that the United States should--

(1) continue to actively promote, within the International Civil Aviation Organization, the development of a global framework for the regulation of greenhouse gas emissions from civil aircraft that recognizes the uniquely international nature of the industry and treats commercial aviation industries in all countries fairly; and

(2) work with foreign governments towards a global agreement that reconciles foreign carbon emissions reduction programs to minimize duplicative requirements and avoids unnecessary complication for the aviation industry, while still achieving the environmental goals.

**Subtitle H--Green Resources for Energy Efficient Neighborhoods****SEC. 281. SHORT TITLE.**

This subtitle may be cited as the `Green Resources for Energy Efficient Neighborhoods Act of 2009' or the `GREEN Act of 2009'.

**SEC. 282. DEFINITIONS.**

For purposes of this subtitle, the following definitions shall apply:

(1) GREEN BUILDING STANDARDS- The term `green building standards' means standards to require use of sustainable design principles to reduce the use of nonrenewable resources, encourage energy-efficient construction and rehabilitation and the use of renewable energy resources, minimize the impact of development on the environment, and improve indoor air quality.

(2) HUD- The term `HUD' means the Department of Housing and Urban Development.

(3) HUD ASSISTANCE- The term `HUD assistance' means financial assistance that is awarded, competitively or noncompetitively, allocated by formula, or provided by HUD through loan insurance or guarantee.

(4) NONRESIDENTIAL STRUCTURE- The term `nonresidential structures' means only nonresidential structures that are appurtenant to single-family or multifamily housing residential structures, or those that are funded by the Secretary of Housing and Urban Development through the HUD Community Development Block Grant program.

(5) SECRETARY- The term `Secretary', unless otherwise specified, means the Secretary of Housing and Urban Development.

**SEC. 283. IMPLEMENTATION OF ENERGY EFFICIENCY PARTICIPATION INCENTIVES FOR HUD PROGRAMS.**

(a) In General- Not later than 180 days after the date of the enactment of this Act, the Secretary shall issue such regulations as may be necessary to establish annual energy efficiency participation incentives to encourage participants in programs administered by the Secretary, including recipients under programs for which HUD assistance is provided, to achieve substantial improvements in energy efficiency.

(b) Requirement for Appropriation of Funds- The requirement under subsection (a) for the Secretary to provide annual energy efficiency participation incentives pursuant to the provisions of this subtitle shall be subject to the annual appropriation of necessary funds.

## **SEC. 284. BASIC HUD ENERGY EFFICIENCY STANDARDS AND STANDARDS FOR ADDITIONAL CREDIT.**

(a) Basic HUD Standard-

(1) RESIDENTIAL STRUCTURES- A residential single-family or multifamily structure shall be considered to comply with the energy efficiency standards under this subsection if--

(A) the structure complies with an energy efficiency building code that has been certified as in compliance with section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) as amended by section 201 of this Act, or a national energy efficiency building code adopted pursuant to that section;

(B) the structure complies with the applicable provisions of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.1-2007, as such standard or successor standard is in effect for purposes of this section pursuant subsection (c);

(C) the structure complies with the applicable provisions of the 2009 International Energy Conservation Code, as such standard or successor standard is in effect for purposes of this section pursuant subsection (c);

(D) in the case only of an existing structure, where determined cost effective, the structure has undergone rehabilitation or improvements, completed after the date of the enactment of this Act, and the energy consumption for the structure has been reduced by at least 20 percent from the previous level of consumption, as determined in accordance with energy audits performed both before and after any rehabilitation or improvements undertaken to reduce such consumption; or

(E) the structure complies with the applicable provisions of such other energy efficiency requirements, standards, checklists, or ratings systems as the Secretary may adopt and apply by regulation, as may be necessary, for purposes of this section for specific types of residential single-family or multifamily structures or otherwise, except that the Secretary shall make a determination regarding whether to adopt and apply any such requirements, standards, checklists, or rating system for purposes of this section not later than the expiration of the 180-day period beginning upon the date of receipt of any written request, made

in such form as the Secretary shall provide, for such adoption and application.

In addition to compliance with any of subparagraphs (A) through (E), the Secretary shall by regulation require, for any newly constructed residential single-family or multifamily structure to be considered to comply with the energy efficiency standards under this subsection, that the structure have appropriate electrical outlets with the facility and capacity to recharge a standard electric passenger vehicle, including an electric hybrid vehicle, where such vehicle would normally be parked.

(2) NONRESIDENTIAL STRUCTURES- For purposes of this section, the Secretary shall identify and adopt by regulation, as may be necessary, energy efficiency requirements, standards, checklists, or rating systems applicable to nonresidential structures that are constructed or rehabilitated with HUD assistance. A nonresidential structure shall be considered to comply with the energy efficiency standards under this subsection if the structure complies with the applicable provisions of any such energy efficiency requirements, standards, checklist, or rating systems identified and adopted by the Secretary pursuant to this paragraph, as such standards are in effect for purposes of this section pursuant to subsection (c).

(3) EFFECT- Nothing in this subsection may be construed to require any structure to comply with any standard established or adopted pursuant to this subsection, or identified in this subsection, or to provide any benefit or credit under any Federal program for any structure that complies with any such standard, except to the extent that--

(A) any provision of law other than this subsection provides a benefit or credit under a Federal program for compliance with a standard established or adopted pursuant to this subsection, or identified in this subsection; or

(B) the Secretary specifically provides pursuant to subsection (c) for the applicability of such standard.

(b) Enhanced Energy Efficiency Standards for Purposes of Providing Additional Credit Under Certain Federally Assisted Housing Programs-

(1) PURPOSE AND EFFECT-

(A) PURPOSE- The purpose of this subsection is to establish energy efficiency and conservation standards and green building standards that --

(i) provide for greater energy efficiency and conservation in structures than is required for compliance with the energy efficiency standards under subsection (a) and then in effect;

(ii) provide for green and sustainable building standards not required by such standards; and

(iii) can be used in connection with Federal housing, housing finance, and development programs to provide incentives for

greater energy efficiency and conservation and for green and sustainable building methods, elements, practices, and materials.

(B) EFFECT- Nothing in this subsection may be construed to require any structure to comply with any standard established pursuant to this subsection or to provide any benefit or credit under any Federal program for any structure, except to the extent that any provision of law other than this subsection provides a benefit or credit under a Federal program for compliance with a standard established pursuant to this subsection.

(2) COMPLIANCE- A residential or nonresidential structure shall be considered to comply with the enhanced energy efficiency and conservation standards or the green building standards under this subsection, to the extent that such structure complies with the applicable provisions of the standards under paragraph (3) or (4), respectively (as such standards are in effect for purposes of this section, pursuant to paragraph (7)), in a manner that is not required for compliance with the energy efficiency standards under subsection (a) then in effect and subject to the Secretary's determination of which standards are applicable to which structures.

(3) ENERGY EFFICIENCY AND CONSERVATION STANDARDS- The energy efficiency and conservation standards under this paragraph are as follows:

(A) RESIDENTIAL STRUCTURES- With respect to residential structures:

(i) NEW CONSTRUCTION- For new construction, the Energy Star standards established by the Environmental Protection Agency, as such standards are in effect for purposes of this subsection pursuant to paragraph (7);

(ii) EXISTING STRUCTURES- For existing structures, a reduction in energy consumption from the previous level of consumption for the structure, as determined in accordance with energy audits performed both before and after any rehabilitation or improvements undertaken to reduce such consumption, that exceeds the reduction necessary for compliance with the energy efficiency standards under subsection (a) then in effect and applicable to existing structures.

(B) NONRESIDENTIAL STRUCTURES- With respect to nonresidential structures, such energy efficiency and conservation requirements, standards, checklists, or rating systems for nonresidential structures as the Secretary shall identify and adopt by regulation, as may be necessary, for purposes of this paragraph.

(4) GREEN BUILDING STANDARDS- The green building standards under this paragraph are as follows:

(A) The national Green Communities criteria checklist for residential construction that provides criteria for the design, development, and operation of affordable housing, as such checklist or successor checklist is in effect for purposes of this section pursuant to paragraph (7).

(B) The gold certification level for the LEED for New Construction rating system, the LEED for Homes rating system, the LEED for Core and Shell rating system, as applicable, as such systems or successor systems are in effect for purposes of this section pursuant to paragraph (7).

(C) The Green Globes assessment and rating system of the Green Buildings Initiative.

(D) For manufactured housing, energy star rating with respect to fixtures, appliances, and equipment in such housing, as such standard or successor standard is in effect for purposes of this section pursuant to paragraph (7).

(E) The National Green Building Standard.

(F) Any other requirements, standards, checklists, or rating systems for green building or sustainability as the Secretary may identify and adopt by regulation, as may be necessary for purposes of this paragraph, except that the Secretary shall make a determination regarding whether to adopt and apply any such requirements, standards, checklist, or rating system for purposes of this section not later than the expiration of the 180-day period beginning upon date of receipt of any written request, made in such form as the Secretary shall provide, for such adoption and application.

(5) GREEN BUILDING- For purposes of this subsection, the term 'green building' means, with respect to standards for structures, standards to require use of sustainable design principles to reduce the use of nonrenewable resources, minimize the impact of development on the environment, and to improve indoor air quality.

(6) ENERGY AUDITS- The Secretary shall establish standards and requirements for energy audits for purposes of paragraph (3)(A)(ii) and, in establishing such standards, may consult with any advisory committees established pursuant to section 285(c)(2) of this subtitle.

(7) APPLICABILITY AND UPDATING OF STANDARDS-

(A) APPLICABILITY- Except as provided in subparagraph (B), the requirements, standards, checklists, and rating systems referred to in this subsection that are in effect for purposes of this subsection are such requirements, standards, checklists, and systems as are in existence upon the date of the enactment of this Act.

(B) UPDATING- For purposes of this section, the Secretary may adopt and apply by regulation, as may be necessary, future amendments and supplements to, and editions of, the requirements, standards, checklists, and rating systems referred to in this subsection, including applicable energy efficiency building codes that are certified as in compliance with section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) as amended by section 201 of this Act, or national energy efficiency building codes adopted pursuant to that section.

(c) Authority of Secretary To Apply Standards to Federally Assisted Housing and Programs-

(1) HUD HOUSING AND PROGRAMS- The Secretary of Housing and Urban Development may, by regulation, provide for the applicability of the energy efficiency standards under subsection (a) or the enhanced energy efficiency and conservation standards and green building standards under subsection (b), or both, with respect to any covered federally assisted housing described in paragraph (3)(A) or any HUD assistance, subject to minimum Federal codes or standards then in effect.

(2) RURAL HOUSING- The Secretary of Agriculture may, by regulation, provide for the applicability of the energy efficiency standards under subsection (a) or the enhanced energy efficiency and conservation standards and green building standards under subsection (b), or both, with respect to any covered federally assisted housing described in paragraph (3)(B) or any assistance provided with respect to rural housing by the Rural Housing Service of the Department of Agriculture, subject to minimum Federal codes or standards then in effect.

(3) COVERED FEDERALLY ASSISTED HOUSING- For purposes of this subsection, the term 'covered federally assisted housing' means--

(A) any residential or nonresidential structure for which any HUD assistance is provided; and

(B) any new construction of single-family housing (other than manufactured homes) subject to mortgages insured, guaranteed, or made by the Secretary of Agriculture under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.).

**SEC. 285. ENERGY EFFICIENCY AND CONSERVATION  
DEMONSTRATION PROGRAM FOR MULTIFAMILY HOUSING  
PROJECTS ASSISTED WITH PROJECT-BASED RENTAL ASSISTANCE.**

(a) Authority- For multifamily housing projects for which project-based rental assistance is provided under a covered multifamily assistance program, the Secretary shall, subject to the availability of amounts provided in advance in appropriation Acts, carry out a program to demonstrate the effectiveness of funding a portion of the costs of meeting the enhanced energy efficiency standards under section 284(b). At the discretion of the Secretary, the demonstration program may include incentives for housing that is assisted with Indian housing block grants provided pursuant to the Native American Housing Assistance and Self-Determination Act of 1996, but only to the extent that such inclusion does not violate such Act, its regulations, and the goal of such Act of tribal self-determination.

(b) Goals- The demonstration program under this section shall be carried out in a manner that--

(1) protects the financial interests of the Federal Government;

(2) reduces the proportion of funds provided by the Federal Government and by owners and residents of multifamily housing projects that are used for costs of utilities for the projects;

(3) encourages energy efficiency and conservation by owners and residents of multifamily housing projects and installation of renewable energy improvements, such as improvements providing for use of solar, wind, geothermal, or biomass energy sources;

(4) creates incentives for project owners to carry out such energy efficiency renovations and improvements by allowing a portion of the savings in operating costs resulting from such renovations and improvements to be retained by the project owner, notwithstanding otherwise applicable limitations on dividends;

(5) promotes the installation, in existing residential buildings, of energy-efficient and cost-effective improvements and renewable energy improvements, such as improvements providing for use of solar, wind, geothermal, or biomass energy sources;

(6) tests the efficacy of a variety of energy efficiency measures for multifamily housing projects of various sizes and in various geographic locations;

(7) tests methods for addressing the various, and often competing, incentives that impede owners and residents of multifamily housing projects from working together to achieve energy efficiency or conservation; and

(8) creates a database of energy efficiency and conservation, and renewable energy, techniques, energy-savings management practices, and energy efficiency and conservation financing vehicles.

(c) Approaches- In carrying out the demonstration program under this section, the Secretary may--

(1) enter into agreements with the Building America Program of the Department of Energy and other consensus committees under which such programs, partnerships, or committees assume some or all of the functions, obligations, and benefits of the Secretary with respect to energy savings;

(2) establish advisory committees to advise the Secretary and any such third-party partners on technological and other developments in the area of energy efficiency and the creation of an energy efficiency and conservation credit facility and other financing opportunities, which committees shall include representatives of homebuilders, realtors, architects, nonprofit housing organizations, environmental protection organizations, renewable energy organizations, and advocacy organizations for the elderly and persons with disabilities; any advisory committees established pursuant to this paragraph shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.);

(3) approve, for a period not to exceed 10 years, additional adjustments in the maximum monthly rents or additional project rental assistance, or additional Indian housing block grant funds under the Native American

Housing Assistance and Self-Determination Act of 1996, as applicable, for dwelling units in multifamily housing projects that are provided project-based rental assistance under a covered multifamily assistance program, in such amounts as may be necessary to amortize a portion of the cost of energy efficiency and conservation measures for such projects;

(4) develop a competitive process for the award of such additional assistance for multifamily housing projects seeking to implement energy efficiency, renewable energy sources, or conservation measures; and

(5) waive or modify any existing statutory or regulatory provision that would otherwise impair the implementation or effectiveness of the demonstration program under this section, including provisions relating to methods for rent adjustments, comparability standards, maximum rent schedules, and utility allowances; notwithstanding the preceding provisions of this paragraph, the Secretary may not waive any statutory requirement relating to fair housing, nondiscrimination, labor standards, or the environment, except pursuant to existing authority to waive nonstatutory environmental and other applicable requirements.

(d) Requirement- During the 4-year period beginning 12 months after the date of the enactment of this Act, the Secretary shall carry out demonstration programs under this section with respect to not fewer than 50,000 dwelling units.

(e) Selection-

(1) SCOPE- In order to provide a broad and representative profile for use in designing a program which can become operational and effective nationwide, the Secretary shall carry out the demonstration program under this section with respect to dwelling units located in a wide variety of geographic areas and project types assisted by the various covered multifamily assistance programs and using a variety of energy efficiency and conservation and funding techniques to reflect differences in climate, types of dwelling units and technical and scientific methodologies, and financing options. The Secretary shall ensure that the geographic areas included in the demonstration program include dwelling units on Indian lands (as such term is defined in section 2601 of the Energy Policy Act of 1992 (25 U.S.C. 3501), to the extent that dwelling units on Indian land have the type of residential structures that are the focus of the demonstration program.

(2) PRIORITY- The Secretary shall provide priority for selection for participation in the program under this section based on the extent to which, as a result of assistance provided, the project will comply with the energy efficiency standards under subsection (a), (b), or (c) of section 284 of this subtitle.

(f) Use of Existing Partnerships- To the extent feasible, the Secretary shall--

(1) utilize the Partnership for Advancing Technology in Housing of the Department of Housing and Urban Development to assist in carrying out the requirements of this section and to provide education and outreach regarding the demonstration program authorized under this section; and

(2) consult with the Secretary of Energy, the Administrator of the Environmental Protection Agency, and the Secretary of the Army regarding utilizing the Building America Program of the Department of Energy, the Energy Star Program, and the Army Corps of Engineers, respectively, to determine the manner in which they might assist in carrying out the goals of this section and providing education and outreach regarding the demonstration program authorized under this section.

(g) Limitation- No amounts made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) may be used to carry out the demonstration program under this section.

(h) Reports-

(1) ANNUAL- Not later than the expiration of the 2-year beginning upon the date of the enactment of this Act, and for each year thereafter during the term of the demonstration program, the Secretary shall submit a report to the Congress annually that describes and assesses the demonstration program under this section.

(2) FINAL- Not later than 6 months after the expiration of the 4-year period described in subsection (d), the Secretary shall submit a final report to the Congress assessing the demonstration program, which--

(A) shall assess the potential for expanding the demonstration program on a nationwide basis; and

(B) shall include descriptions of--

(i) the size of each multifamily housing project for which assistance was provided under the program;

(ii) the geographic location of each project assisted, by State and region;

(iii) the criteria used to select the projects for which assistance is provided under the program;

(iv) the energy efficiency and conservation measures and financing sources used for each project that is assisted under the program;

(v) the difference, before and during participation in the demonstration program, in the amount of the monthly assistance payments under the covered multifamily assistance program for each project assisted under the program;

(vi) the average length of the term of the such assistance provided under the program for a project;

(vii) the aggregate amount of savings generated by the demonstration program and the amount of savings expected to be generated by the program over time on a per-unit and aggregate program basis;

(viii) the functions performed in connection with the implementation of the demonstration program that were transferred or contracted out to any third parties;

(ix) an evaluation of the overall successes and failures of the demonstration program; and

(x) recommendations for any actions to be taken as a result of the such successes and failures.

(3) CONTENTS- Each annual report pursuant to paragraph (1) and the final report pursuant to paragraph (2) shall include--

(A) a description of the status of each multifamily housing project selected for participation in the demonstration program under this section; and

(B) findings from the program and recommendations for any legislative actions.

(i) Covered Multifamily Assistance Program- For purposes of this section, the term 'covered multifamily assistance program' means--

(1) the program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) for project-based rental assistance;

(2) the program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) for assistance for supportive housing for the elderly;

(3) the program under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013) for supportive housing for persons with disabilities;

(4) the program under section 236 of the National Housing Act (12 U.S.C. 1715z-1 for assistance for rental housing projects;

(5) the program under section 515 of the Housing Act of 1949 (42 U.S.C. 1485) for rural rental housing; and

(6) the program for assistance under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111).

(j) Authorization of Appropriations- There is authorized to be appropriated to carry out this section, including providing rent adjustments, additional project rental assistance, and incentives, \$50,000,000 for each fiscal year in which the demonstration program under this section is carried out.

(k) Regulations- Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Secretary shall issue any regulations necessary to carry out this section.

**SEC. 286. ADDITIONAL CREDIT FOR FANNIE MAE AND FREDDIE MAC HOUSING GOALS FOR ENERGY-EFFICIENT AND LOCATION-EFFICIENT MORTGAGES.**

Section 1336(a) of the Housing and Community Development Act of 1992 (12 U.S.C. 4566(a)), as amended by the Federal Housing Finance Regulatory Reform Act of 2008 (Public Law 110-289; 122 Stat. 2654), is amended--

(1) in paragraph (2), by striking `paragraph (5)' and inserting `paragraphs (5) and (6)'; and

(2) by adding at the end the following new paragraph:

`(6) ADDITIONAL CREDIT-

`(A) IN GENERAL- In assigning credit toward achievement under this section of the housing goals for mortgage purchase activities of the enterprises, the Director shall assign--

`(i) more than 125 percent credit, for any such purchase that both --

`(I) complies with the requirements of such goals; and

`(II)(aa) supports housing that meets the energy efficiency standards under section 284(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2009; or

`(bb) is a location-efficient mortgage, as such term is defined in section 1335(e); and

`(ii) credit in addition to credit under clause (i), for any such purchase that both--

`(I) complies with the requirements of such goals, and

`(II) supports housing that complies with the enhanced energy efficiency and conservation standards, or the green building standards, under section 284(b) of such Act, or both,

and such additional credit shall be given based on the extent to which the housing supported with such purchases complies with such standards.

`(B) TREATMENT OF ADDITIONAL CREDIT- The availability of additional credit under this paragraph shall not be used to increase any housing goal, subgoal, or target established under this subpart.'

**SEC. 287. DUTY TO SERVE UNDERSERVED MARKETS FOR ENERGY-EFFICIENT AND LOCATION-EFFICIENT MORTGAGES.**

Section 1335 of Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4565), as amended by the Federal Housing Finance Regulatory Reform Act of 2008 (Public Law 110-289; 122 Stat. 2654), is amended--

(1) in subsection (a)(1), by adding at the end the following new subparagraph:

^ (D) MARKETS FOR ENERGY-EFFICIENT AND LOCATION-EFFICIENT MORTGAGES-

^ (i) DUTY- Subject to clause (ii), the enterprise shall develop loan products and flexible underwriting guidelines to facilitate a secondary market for energy-efficient and location-efficient mortgages on housing for very low-, low-, and moderate-income families, and for second and junior mortgages made for purposes of energy efficiency or renewable energy improvements, or both.

^ (ii) AUTHORITY TO SUSPEND- Notwithstanding any other provision of this section, the Director may suspend the applicability of the requirement under clause (i) with respect to an enterprise, for such period as is necessary, if the Director determines that exigent circumstances exist and such suspension is appropriate to ensure the safety and soundness of the portfolio holdings of the enterprise.';

(2) by adding at the end the following new subsection:

^ (e) Definitions- For purposes of this section, the following definitions shall apply:

^ (1) ENERGY-EFFICIENT MORTGAGE- The term 'energy-efficient mortgage' means a mortgage loan under which the income of the borrower, for purposes of qualification for such loan, is considered to be increased by not less than \$1 for each \$1 of savings projected to be realized by the borrower as a result of cost-effective energy-saving design, construction or improvements (including use of renewable energy sources, such as solar, geothermal, biomass, and wind, super-insulation, energy-saving windows, insulating glass and film, and radiant barrier) for the home for which the loan is made.

^ (2) LOCATION-EFFICIENT MORTGAGE- The term 'location-efficient mortgage' means a mortgage loan under which--

^ (A) the income of the borrower, for purposes of qualification for such loan, is considered to be increased by not less than \$1 for each \$1 of savings projected to be realized by the borrower because the location of the home for which loan is made will result in decreased transportation costs for the household of the borrower; or

^ (B) the sum of the principal, interest, taxes, and insurance due under the mortgage loan is decreased by not less than \$1 for each \$1 of savings projected to be realized by the borrower because the location of the home for which loan is made will result in decreased transportation costs for the household of the borrower.'.

**SEC. 288. CONSIDERATION OF ENERGY EFFICIENCY UNDER FHA MORTGAGE INSURANCE PROGRAMS AND NATIVE AMERICAN AND NATIVE HAWAIIAN LOAN GUARANTEE PROGRAMS.**

## (a) FHA Mortgage Insurance-

(1) REQUIREMENT- Title V of the National Housing Act is amended by adding after section 542 (12 U.S.C. 1735f-20) the following new section:

**SEC. 543. CONSIDERATION OF ENERGY EFFICIENCY.**

(a) Underwriting Standards- The Secretary shall establish a method to consider, in its underwriting standards for mortgages on single-family housing meeting the energy efficiency standards under section 284(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2009 that are insured under this Act, the impact that savings on utility costs has on the income of the mortgagor.

(b) Goal- It is the sense of the Congress that, in carrying out this Act, the Secretary should endeavor to insure mortgages on single-family housing meeting the energy efficiency standards under section 284(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2009 such that at least 50,000 such mortgages are insured during the period beginning upon the date of the enactment of such Act and ending on December 31, 2012.'

(2) REPORTING ON DEFAULTS- Section 540(b) of the National Housing Act (12 U.S.C. 1735f-18(b)) is amended by adding at the end the following new paragraph:

(3) With respect to each collection period that commences after December 31, 2011, the total number of mortgages on single-family housing meeting the energy efficiency standards under section 284(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2009 that are insured by the Secretary during the applicable collection period, the number of defaults and foreclosures occurring on such mortgages during such period, the percentage of the total of such mortgages insured during such period on which defaults and foreclosure occurred, and the rate for such period of defaults and foreclosures on such mortgages compared to the overall rate for such period of defaults and foreclosures on mortgages for single-family housing insured under this Act by the Secretary.'

## (b) Indian Housing Loan Guarantees-

(1) REQUIREMENT- Section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a) is amended--

(A) by redesignating subsection (l) as subsection (m); and

(B) by inserting after subsection (k) the following new subsection:

(l) Consideration of Energy Efficiency- The Secretary shall establish a method to consider, in its underwriting standards for loans for single-family housing meeting the energy efficiency standards under section 284(a) of the Green Resources for

Energy Efficient Neighborhoods Act of 2009 that are guaranteed under this section, the impact that savings on utility costs has on the income of the borrower.'

(2) REPORTING ON DEFAULTS- Section 540(b) of the National Housing Act (12 U.S.C. 1735f-18(b)), as amended by subsection (a)(2) of this section, is further amended by adding at the end the following new paragraph:

^ (4) With respect to each collection period that commences after December 31, 2011, the total number of loans guaranteed under section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a) on single-family housing meeting the energy efficiency standards under section 284(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2009 that are guaranteed by the Secretary during the applicable collection period, the number of defaults and foreclosures occurring on such loans during such period, the percentage of the total of such loans guaranteed during such period on which defaults and foreclosure occurred, and the rate for such period of defaults and foreclosures on such loans compared to the overall rate for such period of defaults and foreclosures on loans for single-family housing guaranteed under such section 184 by the Secretary.'

(c) Native Hawaiian Housing Loan Guarantees-

(1) REQUIREMENT- Section 184A of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13b) is amended by inserting after subsection (l) the following new subsection:

^ (m) Energy-efficient Housing Requirement- The Secretary shall establish a method to consider, in its underwriting standards for loans for single-family housing meeting the energy efficiency standards under section 284(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2009 that are guaranteed under this section, the impact that savings on utility costs has on the income of the borrower.'

(2) REPORTING ON DEFAULTS- Section 540(b) of the National Housing Act (12 U.S.C. 1735f-18(b)), as amended by the preceding provisions of this section, is further amended by adding at the end the following new paragraph:

^ (5) With respect to each collection period that commences after December 31, 2011, the total number of loans guaranteed under section 184A of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13b) on single-family housing meeting the energy efficiency standards under section 284(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2009 that are guaranteed by the Secretary during the applicable collection period, the number of defaults and foreclosures occurring on such loans during such period, the percentage of the total of such loans guaranteed during such period on which defaults and foreclosure occurred, and the rate for such period of defaults and foreclosures on such loans compared to the overall rate for such period of defaults and foreclosures on loans for single-family housing guaranteed under such section 184A by the Secretary.'

**SEC. 289. ENERGY-EFFICIENT MORTGAGES AND LOCATION-EFFICIENT MORTGAGES EDUCATION AND OUTREACH CAMPAIGN.**

Section 106 of the Energy Policy Act of 1992 (12 U.S.C. 1701z-16) is amended by adding at the end the following new subsection:

^ (g) Education and Outreach Campaign-

^ (1) DEVELOPMENT OF ENERGY- AND LOCATION-EFFICIENT MORTGAGES OUTREACH PROGRAM-

^ (A) COMMISSION- The Secretary, in consultation and coordination with the Secretary of Energy, the Secretary of Education, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, shall establish a commission to develop and recommend model mortgage products and underwriting guidelines that provide market-based incentives to prospective home buyers, lenders, and sellers to incorporate energy efficiency upgrades and location efficiencies in new mortgage loan transactions.

^ (B) REPORT- Not later than 24 months after the date of the enactment of this Act, the Secretary shall provide a written report to the Congress on the results of work of the commission established pursuant to subparagraph (A) and that identifies model mortgage products and underwriting guidelines that may encourage energy and location efficiency.

^ (2) IMPLEMENTATION- After submission of the report under paragraph (1) (B), the Secretary, in consultation and coordination with the Secretary of Energy, the Secretary of Education, and the Administrator of the Environmental Protection Agency, shall carry out a public awareness, education, and outreach campaign based on the findings of the commission established pursuant to paragraph (1) to inform and educate residential lenders and prospective borrowers regarding the availability, benefits, advantages, and terms of energy-efficient mortgages and location-efficient mortgages made available pursuant to this section, energy-efficient and location-efficient mortgages that meet the requirements of section 1335 of the Housing and Community Development Act of 1992 (42 U.S.C. 4565), and other mortgages, including mortgages for multifamily housing, that have energy improvement features or location efficiency features and to publicize such availability, benefits, advantages, and terms. Such actions may include entering into a contract with an appropriate entity to publicize and market such mortgages through appropriate media.

^ (3) RENEWABLE ENERGY HOME PRODUCT EXPOS- The Congress hereby encourages the Secretary of Housing and Urban Development to work with appropriate entities to organize and hold renewable energy expositions that provide an opportunity for the public to view and learn about renewable energy products for the home that are currently on the market.

^ (4) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated to the Secretary to carry out this subsection \$5,000,000 for each of fiscal years 2010 through 2014.'

## **SEC. 290. COLLECTION OF INFORMATION ON ENERGY-EFFICIENT AND LOCATION-EFFICIENT MORTGAGES THROUGH HOME MORTGAGE DISCLOSURE ACT.**

(a) In General- Section 304(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(b)) is amended--

(1) in paragraph (3), by striking `and' at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

` (5) the number and dollar amount of mortgage loans for single-family housing and for multifamily housing that are energy-efficient mortgages (as such term is defined in section 1335 of Housing and Community Development Act of 1992); and

` (6) the number and dollar amount of mortgage loans for single-family housing and for multifamily housing that are location-efficient mortgages (as such term is defined in section 1335 of Housing and Community Development Act of 1992).'

(b) Applicability- The amendment made by subsection (a) shall apply with respect to the first calendar year that begins after the expiration of the 30-day period beginning on the date of the enactment of this Act.

## **SEC. 291. ENSURING AVAILABILITY OF HOMEOWNERS INSURANCE FOR HOMES NOT CONNECTED TO ELECTRICITY GRID.**

(a) Congressional Intent- The Congress intends that--

(1) consumers shall not be denied homeowners insurance for a dwelling (as such term is defined in subsection (c)) based solely on the fact that the dwelling is not connected to or able to receive electricity service from any wholesale or retail electric power provider;

(2) States should ensure that consumers are able to obtain homeowners insurance for such dwellings;

(3) States should support insurers that develop voluntary incentives to provide such insurance; and

(4) States may not prohibit insurers from offering a homeowners insurance product specifically designed for such dwellings.

(b) Insuring Homes and Related Property in Indian Areas- Notwithstanding any other provision of law, dwellings located in Indian areas (as such term is defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)) and constructed or maintained using assistance, loan guarantees, or other authority under the Native American Housing Assistance and

Self-Determination Act of 1996 may be insured by any tribally owned self-insurance risk pool approved by the Secretary of Housing and Urban Development.

(c) Dwelling- For purposes of this section, the term `dwelling' means a residential structure that--

- (1) consists of one to four dwelling units;
- (2) is provided electricity from renewable energy sources; and
- (3) is not connected to any wholesale or retail electrical power grid.

## **SEC. 292. MORTGAGE INCENTIVES FOR ENERGY-EFFICIENT MULTIFAMILY HOUSING.**

(a) In General- The Secretary of Housing and Urban Development shall establish incentives for increasing the energy efficiency of multifamily housing that is subject to a mortgage to be insured under title II of the National Housing Act (12 U.S.C. 1707 et seq.) so that the housing meets the energy efficiency standards under section 284(a) of this subtitle and incentives to encourage compliance of such housing with the energy efficiency and conservation standards, and the green building standards, under section 284(b) of this subtitle, to the extent that such incentives are based on the impact that savings on utility costs has on the operating costs of the housing, as determined by the Secretary.

(b) Incentives- Such incentives may include, for any such multifamily housing that complies with the energy efficiency standards under section 284(a)--

- (1) providing a discount on the chargeable premiums for the mortgage insurance for such housing from the amount otherwise chargeable for such mortgage insurance;
- (2) allowing mortgages to exceed the dollar amount limits otherwise applicable under law to the extent such additional amounts are used to finance improvements or measures designed to meet the standards referred to in subsection (a); and
- (3) reducing the amount that the owner of such multifamily housing meeting the standards referred to in subsection (a) is required to contribute.

## **SEC. 293. ENERGY-EFFICIENT CERTIFICATIONS FOR MANUFACTURED HOUSING WITH MORTGAGES.**

Section 526 of the National Housing Act (12 U.S.C. 1735f-4(a)) is amended--

- (1) in subsection (a)--
  - (A) by striking ` , other than manufactured homes,' each place such term appears;
  - (B) by inserting after the period at the end the following: `The energy performance requirements developed and established by the Secretary

under this section for manufactured homes shall require energy star rating for wall fixtures, appliances, and equipment in such housing.';

(C) by inserting `(1)' after `(a)'; and

(D) by adding at the end the following new paragraphs:

(2) The Secretary shall require, with respect to any single- or multi-family residential housing subject to a mortgage insured under this Act, that any approval or certification of the housing for meeting any energy efficiency or conservation criteria, standards, or requirements pursuant to this title and any approval or certification required pursuant to this title with respect to energy-conserving improvements or any renewable energy sources, such as wind, solar energy geothermal, or biomass, shall be conducted only by an individual certified by a home energy rating system provider who has been accredited to conduct such ratings by the Home Energy Ratings System Council, the Residential Energy Services Network, or such other appropriate national organization, as the Secretary may provide, or by licensed professional architect or engineer. If any organization makes a request to the Secretary for approval to accredit individuals to conduct energy efficiency or conservation ratings, the Secretary shall review and approve or disapprove such request not later than the expiration of the 6-month period beginning upon receipt of such request.

(3) The Secretary shall periodically examine the method used to conduct inspections for compliance with the requirements under this section, analyze various other approaches for conducting such inspections, and review the costs and benefits of the current method compared with other methods.'; and

(2) in subsection (b), by striking `, other than a manufactured home,'.

## **SEC. 294. ASSISTED HOUSING ENERGY LOAN PILOT PROGRAM.**

(a) Authority- Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the Secretary shall develop and implement a pilot program under this section to facilitate the financing of cost-effective capital improvements for covered assisted housing projects to improve the energy efficiency and conservation of such projects.

(b) Loans- The pilot program under this section shall involve not less than three and not more than five lenders, and shall provide for a privately financed loan to be made for a covered assisted housing project, which shall--

(1) finance capital improvements for the project that meet such requirements as the Secretary shall establish, and may involve contracts with third parties to perform such capital improvements, including the design of such improvements by licensed professional architects or engineers;

(2) have a term to maturity of not more than 20 years, which shall be based upon the duration necessary to realize cost savings sufficient to repay the loan;

(3) be secured by a mortgage subordinate to the mortgage for the project that is insured under the National Housing Act; and

(4) provide for a reduction in the remaining principal obligation under the loan based on the actual resulting cost savings realized from the capital improvements financed with the loan.

(c) Underwriting Standards- The Secretary shall establish underwriting requirements for loans made under the pilot program under this section, which shall--

(1) require the cost savings projected to be realized from the capital improvements financed with the loan, during the term of the loan, to exceed the costs of repaying the loan;

(2) allow the designer or contractor involved in designing capital improvements to be financed with a loan under the program to carry out such capital improvements; and

(3) include such energy, audit, property, financial, ownership, and approval requirements as the Secretary considers appropriate.

(d) Treatment of Savings- The pilot program under this section shall provide that the project owner shall receive the full financial benefit from any reduction in the cost of utilities resulting from capital improvements financed with a loan made under the program.

(e) Covered Assisted Housing Projects- For purposes of this section, the term 'covered assisted housing project' means a housing project that--

(1) is financed by a loan or mortgage that is--

(A) insured by the Secretary under--

(i) subsection (d)(3) of section 221 of the National Housing Act (12 U.S.C. 1715l), and bears interest at a rate determined under the proviso of section 221(d)(5) of such Act; or

(ii) subsection (d)(4) of such section 221.

(B) insured or assisted under section 236 of the National Housing Act (12 U.S.C. 1715z-1);

(2) at the time a loan under this section is made, is provided project-based rental assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) for 50 percent or more of the dwelling units in the project; and

(3) is not a housing project owned or held by the Secretary, or subject to a mortgage held by the Secretary.

## **SEC. 295. MAKING IT GREEN.**

(a) Partnerships With Tree-planting Organizations- The Secretary shall establish and provide incentives for developers of housing for which any HUD financial assistance, as determined by the Secretary, is provided for development, maintenance, operation, or other costs, to enter into agreements and partnerships

with tree-planting organizations, nurseries, and landscapers to certify that trees, shrubs, grasses, and other plants are planted in the proper manner, are provided adequate maintenance, and survive for at least 3 years after planting or are replaced. The financial assistance determined by the Secretary as eligible under this section shall take into consideration such factors as cost effectiveness and affordability.

(b) Making It Green Plan- In the case of any new or substantially rehabilitated housing for which HUD financial assistance, as determined in accordance with subsection (a), is provided by the Secretary for the development, construction, maintenance, rehabilitation, improvement, operation, or costs of the housing, including financial assistance provided through the Community Development Block Grant program under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.), the Secretary shall require the development of a plan that provides for--

- (1) in the case of new construction and improvements, siting of such housing and improvements in a manner that provides for energy efficiency and conservation to the extent feasible, taking into consideration location and project type;
- (2) minimization of the effects of construction, rehabilitation, or other development on the condition of existing trees;
- (3) selection and installation of indigenous trees, shrubs, grasses, and other plants based upon applicable design guidelines and standards of the International Society for Arboriculture;
- (4) post-planting care and maintenance of the landscaping relating to or affected by the housing in accordance with best management practices; and
- (5) establishment of a goal for minimum greenspace or tree canopy cover for the housing site for which such financial assistance is provided, including guidelines and timetables within which to achieve compliance with such minimum requirements.

(c) Partnerships- In carrying out this section, the Secretary is encouraged to consult, as appropriate, with national organizations dedicated to providing housing assistance and related services to low-income families, such as the Alliance for Community Trees and its affiliates, the American Nursery and Landscape Association, the American Society of Landscape Architects, and the National Arbor Day Foundation.

## **SEC. 296. RESIDENTIAL ENERGY EFFICIENCY BLOCK GRANT PROGRAM.**

Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended by adding at the end the following new section:

## **SEC. 123. RESIDENTIAL ENERGY EFFICIENCY BLOCK GRANT PROGRAM.**

^ (a) In General- To the extent amounts are made available for grants under this section, the Secretary shall make grants under this section to States, metropolitan cities and urban counties, Indian tribes, and insular areas to carry out energy efficiency improvements in new and existing single-family and multifamily housing.

^ (b) Allocations-

^ (1) IN GENERAL- Of the total amount made available for each fiscal year for grants under this section that remains after reserving amounts pursuant to paragraph (2), the Secretary shall allocate for insular areas, for metropolitan cities and urban counties, and for States, an amount that bears the same ratio to such total amount as the amount allocated for such fiscal year under section 106 for Indian tribes, for insular areas, for metropolitan cities and urban counties, and for States, respectively, bears to the total amount made available for such fiscal year for grants under section 106.

^ (2) SET ASIDE FOR INDIAN TRIBES- Of the total amount made available for each fiscal year for grants under this section, the Secretary shall allocate not less than 1 percent to Indian tribes.

^ (c) Grant Amounts-

^ (1) ENTITLEMENT COMMUNITIES- From the amounts allocated pursuant to subsection (b) for metropolitan cities and urban counties for each fiscal year, the Secretary shall make a grant for such fiscal year to each metropolitan city and urban county that complies with the requirement under subsection (d), in the amount that bears the same ratio such total amount so allocated as the amount of the grant for such fiscal year under section 106 for such metropolitan city or urban county bears to the aggregate amount of all grants for such fiscal year under section 106 for all metropolitan cities and urban counties.

^ (2) STATES- From the amounts allocated pursuant to subsection (b) for States for each fiscal year, the Secretary shall make a grant for such fiscal year to each State that complies with the requirement under subsection (d), in the amount that bears the same ratio such total amount so allocated as the amount of the grant for such fiscal year under section 106 for such State bears to the aggregate amount of all grants for such fiscal year under section 106 for all States. Grant amounts received by a State shall be used only for eligible activities under subsection (e) carried out in nonentitlement areas of the State.

^ (3) INDIAN TRIBES- From the amounts allocated pursuant to subsection (b) for Indian tribes, the Secretary shall make grants to Indian tribes that comply with the requirement under subsection (d) on the basis of a competition conducted pursuant to specific criteria, as the Secretary shall establish by regulation, for the selection of Indian tribes to receive such amount.

^ (4) INSULAR AREAS- From the amounts allocated pursuant to subsection (b) for insular areas, the Secretary shall make a grant to each insular area that complies with the requirement under subsection (d) on the basis of the ratio of the population of the insular area to the aggregate population of all insular areas. In determining the distribution of amounts to insular areas, the

Secretary may also include other statistical criteria as data become available from the Bureau of Census of the Department of Labor, but only if such criteria are set forth by regulation issued after notice and an opportunity for comment.

^ (d) Statement of Activities-

^ (1) REQUIREMENT- Before receipt the receipt in any fiscal year of a grant under subsection (c) by any grantee, the grantee shall have prepared a final statement of housing energy efficiency objectives and projected use of funds as the Secretary shall require and shall have provided the Secretary with such certifications regarding such objectives and use as the Secretary may require. In the case of metropolitan cities, urban counties, units of general local government, and insular areas receiving grants, the statement of projected use of funds shall consist of proposed housing energy efficiency activities. In the case of States receiving grants, the statement of projected use of funds shall consist of the method by which the States will distribute funds to units of general local government.

^ (2) PUBLIC PARTICIPATION- The Secretary may establish requirements to ensure the public availability of information regarding projected use of grant amounts and public participation in determining such projected use.

^ (e) Eligible Activities-

^ (1) REQUIREMENT- Amounts from a grant under this section may be used only to carry out activities for single-family or multifamily housing that are designed to improve the energy efficiency of the housing so that the housing complies with the energy efficiency standards under section 284(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2009, including such activities to provide energy for such housing from renewable sources, such as wind, waves, solar, biomass, and geothermal sources.

^ (2) PREFERENCE FOR COMPLIANCE BEYOND BASIC REQUIREMENTS- In selecting activities to be funded with amounts from a grant under this section, a grantee shall give more preference to activities based on the extent to which the activities will result in compliance by the housing with the enhanced energy efficiency and conservation standards, and the green building standards, under section 284(b) of such Act.

^ (f) Reports- Each grantee of a grant under this section for a fiscal year shall submit to the Secretary, at a time determined by the Secretary, a performance and evaluation report concerning the use of grant amounts, which shall contain an assessment by the grantee of the relationship of such use to the objectives identified in the grantees statement under subsection (d).

^ (g) Applicability of CDBG Provisions- Sections 109, 110, and 111 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309, 5310, 5311) shall apply to assistance received under this section to the same extent and in the same manner that such sections apply to assistance received under title I of such Act.

^ (h) Authorization of Appropriations- There is authorized to be appropriated for grants under this section \$2,500,000,000 for fiscal year 2010 and such sums as may be necessary for each fiscal year thereafter.'.

## **SEC. 297. INCLUDING SUSTAINABLE DEVELOPMENT AND TRANSPORTATION STRATEGIES IN COMPREHENSIVE HOUSING AFFORDABILITY STRATEGIES.**

Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended--

(1) by striking `and' at the end of paragraph (19);

(2) by striking the period at the end of paragraph (20) and inserting `; and';

(3) and by inserting after paragraph (20) the following new paragraphs:

^ (21) describe the jurisdiction's strategies to encourage sustainable development for affordable housing, including single-family and multifamily housing, as measured by--

^ (A) greater energy efficiency and use of renewable energy sources, including any strategies regarding compliance with the energy efficiency standards under section 284(a) of the Green Resources for Energy Efficient Neighborhoods Act of 2009 and with the enhanced energy efficiency and conservation standards, and the green building standards, under section 284(b) of such Act;

^ (B) increased conservation, recycling, and reuse of resources;

^ (C) more effective use of existing infrastructure;

^ (D) use of building materials and methods that are healthier for residents of the housing, including use of building materials that are free of added known carcinogens that are classified as Group 1 Known Carcinogens by the International Agency for Research on Cancer; and

^ (E) such other criteria as the Secretary determines, in consultation with the Secretary of Energy, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, are in accordance with the purposes of this paragraph; and

^ (22) describe the jurisdiction's efforts to coordinate its housing strategy with its transportation planning strategies to ensure to the extent practicable that residents of affordable housing have access to public transportation.'.

## **SEC. 298. GRANT PROGRAM TO INCREASE SUSTAINABLE LOW-INCOME COMMUNITY DEVELOPMENT CAPACITY.**

(a) In General- The Secretary may make grants to nonprofit organizations to use for any of the following purposes:

(1) Training, educating, supporting, or advising an eligible community development organization or qualified youth service and conservation corps in improving energy efficiency, resource conservation and reuse, design strategies to maximize energy efficiency, installing or constructing renewable energy improvements (such as wind, wave, solar, biomass, and geothermal energy sources), and effective use of existing infrastructure in affordable housing and economic development activities in low-income communities, taking into consideration energy efficiency standards under section 284(a) of this subtitle and with the enhanced energy efficiency and conservation standards, and the green building standards, under section 284(b) of this subtitle.

(2) Providing loans, grants, or predevelopment assistance to eligible community development organizations or qualified youth service and conservation corps to carry out energy efficiency improvements that comply with the energy efficiency standards under section 284(a) of this subtitle, resource conservation and reuse, and effective use of existing infrastructure in affordable housing and economic development activities in low-income communities. In providing assistance under this paragraph, the Secretary shall give more preference to activities based on the extent to which the activities will result in compliance with the enhanced energy efficiency and conservation standards, and the green building standards, under section 284 (b) of this subtitle.

(3) Such other purposes as the Secretary determines are in accordance with the purposes of this subsection.

(b) Application Requirement- To be eligible for a grant under this section, a nonprofit organization shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) Award of Contracts- Contracts for architectural or engineering services funded with amounts from grants made under this section shall be awarded in accordance with chapter 11 of title 40, United States Code (relating to selection of architects and engineers).

(d) Matching Requirement- A grant made under this section may not exceed the amount that the nonprofit organization receiving the grant certifies, to the Secretary, will be provided (in cash or in-kind) from nongovernmental sources to carry out the purposes for which the grant is made.

(e) Definitions- For purposes of this section, the following definitions shall apply:

(1) The term `nonprofit organization' has the meaning given such term in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704).

(2) The term `eligible community development organization' means--

(A) a unit of general local government (as defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704));

(B) a community housing development organization (as defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704));

(C) an Indian tribe or tribally designated housing entity (as such terms are defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)); or

(D) a public housing agency, as such term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437(b)).

(3) The term 'low-income community' means a census tract in which 50 percent or more of the households have an income which is less than 80 percent of the greater of--

(A) the median gross income for such year for the area in which such census tract is located; or

(B) the median gross income for such year for the State in which such census tract is located.

(f) Authorization of Appropriations- There are authorized to be appropriated to the Secretary to carry out this section \$10,000,000 for each of fiscal years 2010 through 2014.

## **SEC. 299. HOPE VI GREEN DEVELOPMENTS REQUIREMENT.**

(a) Mandatory Component- Section 24(e) of the United States Housing Act of 1937 (42 U.S.C. 1437v(e)) is amended by adding at the end the following new paragraph:

^ (4) GREEN DEVELOPMENTS REQUIREMENT-

^ (A) REQUIREMENT- The Secretary may not make a grant under this section to an applicant unless the proposed revitalization plan of the applicant to be carried out with such grant amounts meets the following requirements:

^ (i) GREEN COMMUNITIES CRITERIA CHECKLIST- All residential construction under the proposed plan complies with the national Green Communities criteria checklist for residential construction that provides criteria for the design, development, and operation of affordable housing, as such checklist is in effect for purposes of this paragraph pursuant to subparagraph (D) at the date of the application for the grant, or any substantially equivalent standard or standards as determined by the Secretary, as follows:

^ (I) The proposed plan shall comply with all items of the national Green Communities criteria checklist for residential construction that are identified as mandatory.

^ (II) The proposed plan shall comply with such other nonmandatory items of such national Green Communities

criteria checklist so as to result in a cumulative number of points attributable to such nonmandatory items under such checklist of not less than--

` (aa) 25 points, in the case of any proposed plan (or portion thereof) consisting of new construction; and

` (bb) 20 points, in the case of any proposed plan (or portion thereof) consisting of rehabilitation.

` (ii) GREEN BUILDINGS CERTIFICATION SYSTEM- All nonresidential construction under the proposed plan complies with all minimum required levels of the green building rating systems and levels identified by the Secretary pursuant to subparagraph (C), as such systems and levels are in effect for purposes of this paragraph pursuant to subparagraph (D) at the time of the application for the grant.

` (B) VERIFICATION-

` (i) IN GENERAL- The Secretary shall verify, or provide for verification, sufficient to ensure that each proposed revitalization plan carried out with amounts from a grant under this section complies with the requirements under subparagraph (A) and that the revitalization plan is carried out in accordance with such requirements and plan.

` (ii) TIMING- In providing for such verification, the Secretary shall establish procedures to ensure such compliance with respect to each grantee, and shall report to the Congress with respect to the compliance of each grantee, at each of the following times:

` (I) Not later than 6 months after execution of the grant agreement under this section for the grantee.

` (II) Upon completion of the revitalization plan of the grantee.

` (C) IDENTIFICATION OF GREEN BUILDINGS RATING SYSTEMS AND LEVELS-

` (i) IN GENERAL- For purposes of this paragraph, the Secretary shall identify rating systems and levels for green buildings that the Secretary determines to be the most likely to encourage a comprehensive and environmentally sound approach to ratings and standards for green buildings. The identification of the ratings systems and levels shall be based on the criteria specified in clause (ii), shall identify the highest levels the Secretary determines are appropriate above the minimum levels required under the systems selected. Within 90 days of the completion of each study required by clause (iii), the Secretary shall review and update the rating systems and levels, or identify alternative systems and levels for

purposes of this paragraph, taking into account the conclusions of such study.

^ (ii) CRITERIA- In identifying the green rating systems and levels, the Secretary shall take into consideration--

^ (I) the ability and availability of assessors and auditors to independently verify the criteria and measurement of metrics at the scale necessary to implement this paragraph;

^ (II) the ability of the applicable ratings system organizations to collect and reflect public comment;

^ (III) the ability of the standards to be developed and revised through a consensus-based process;

^ (IV) An evaluation of the robustness of the criteria for a high-performance green building, which shall give credit for promoting--

^ (aa) efficient and sustainable use of water, energy, and other natural resources;

^ (bb) use of renewable energy sources;

^ (cc) improved indoor and outdoor environmental quality through enhanced indoor and outdoor air quality, thermal comfort, acoustics, outdoor noise pollution, day lighting, pollutant source control, sustainable landscaping, and use of building system controls and low- or no-emission materials, including preference for materials with no added carcinogens that are classified as Group 1 Known Carcinogens by the International Agency for Research on Cancer; and

^ (dd) such other criteria as the Secretary determines to be appropriate; and

^ (V) national recognition within the building industry.

^ (iii) 5-year EVALUATION- At least once every 5 years, the Secretary shall conduct a study to evaluate and compare available third-party green building rating systems and levels, taking into account the criteria listed in clause (ii).

^ (D) APPLICABILITY AND UPDATING OF STANDARDS-

^ (i) APPLICABILITY- Except as provided in clause (ii) of this subparagraph, the national Green Communities criteria checklist and green building rating systems and levels referred to in clauses (i) and (ii) of subparagraph (A) that are in effect for purposes of this paragraph are such checklist systems, and levels as in existence upon the date of the enactment of the Green Resources for Energy Efficient Neighborhoods Act of 2009.

^ (ii) UPDATING- The Secretary may, by regulation, adopt and apply, for purposes of this paragraph, future amendments and supplements to, and editions of, the national Green Communities criteria checklist, any standard or standards that the Secretary has

determined to be substantially equivalent to such checklist, and the green building ratings systems and levels identified by the Secretary pursuant to subparagraph (C).'

(b) Selection Criteria; Graded Component- Section 24(e)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437v(e)(2)) is amended--

(1) in subparagraph (K), by striking `and' at the end;

(2) by redesignating subparagraph (L) as subparagraph (M); and

(3) by inserting after subparagraph (K) the following new subparagraph:

`(L) the extent to which the proposed revitalization plan--

`(i) in the case of residential construction, complies with the nonmandatory items of the national Green Communities criteria checklist identified in paragraph (4)(A)(i), or any substantially equivalent standard or standards as determined by the Secretary, but only to the extent such compliance exceeds the compliance necessary to accumulate the number of points required under such paragraph; and

`(ii) in the case of nonresidential construction, complies with the components of the green building rating systems and levels identified by the Secretary pursuant to paragraph (4)(C), but only to the extent such compliance exceeds the minimum level required under such systems and levels; and'.

## **SEC. 299A. CONSIDERATION OF ENERGY EFFICIENCY IMPROVEMENTS IN APPRAISALS.**

(a) Appraisals in Connection With Federally Related Transactions--

(1) REQUIREMENT- Section 1110 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3339) is amended--

(A) in paragraph (1), by striking `and' at the end;

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

`(2) that such appraisals be performed in accordance with appraisal standards that require, in determining the value of a property, consideration of any renewable energy sources for, or energy efficiency or energy-conserving improvements or features of, the property; and'.

(2) REVISION OF APPRAISAL STANDARDS- Each Federal financial institutions regulatory agency shall, not later than 6 months after the date of the enactment of this Act, revise its standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of the agency to comply with the requirement under the amendments made by paragraph (1) of this subsection.

(b) Appraiser Certification and Licensing Requirements- Section 1116 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3345) is amended--

(1) in subsection (a), by inserting before the period at the end the following: ` , and meets the requirements established pursuant to subsection (f) for qualifications regarding consideration of any renewable energy sources for, or energy efficiency or energy-conserving improvements or features of, the property';

(2) in subsection (c), by inserting before the period at the end the following: ` , which shall include compliance with the requirements established pursuant to subsection (f) regarding consideration of any renewable energy sources for, or energy efficiency or energy-conserving improvements or features of, the property';

(3) in subsection (e), by striking `The' and inserting `Except as provided in subsection (f), the'; and

(4) by adding at the end the following new subsection:

` (f) Requirements for Appraisers Regarding Energy Efficiency Features- The Appraisal Subcommittee shall establish requirements for State certification of State certified real estate appraisers and for State licensing of State licensed appraisers, to ensure that appraisers consider and are qualified to consider, in determining the value of a property, any renewable energy sources for, or energy efficiency or energy-conserving improvements or features of, the property.'.

(c) Guidelines for Appraising Photovoltaic Measures and Training of Appraisers- Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended by adding at the end the following new subsection:

` (g) Guidelines for Appraising Photovoltaic Measures and Training of Appraisers- The Appraisal Subcommittee shall, in consultation with the Secretary of Housing and Urban Development, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, establish specific guidelines for--

` (1) appraising off- and on-grid photovoltaic measures for compliance with the appraisal standards prescribed pursuant to section 1110(2);

` (2) requirements under section 1116(f) for certification of State certified real estate appraisers and for State licensing of State licensed appraisers, to ensure that appraisers consider, and are qualified to consider, such photovoltaic measures in determining the value of a property; and

` (3) training of appraisers to meet the requirements established pursuant to paragraph (2) of this subsection.'.

## **SEC. 299B. HOUSING ASSISTANCE COUNCIL.**

The Secretary shall require the Housing Assistance Council--

(1) to encourage each organization that receives assistance from the Council with any amounts made available from the Secretary to provide that any structures and buildings developed or assisted under projects, programs, and activities funded with such amounts complies with the energy efficiency standards under section 284(a) of this subtitle; and

(2) to establish incentives to encourage each such organization to provide that any such structures and buildings comply with the energy efficiency and conservation standards, and the green building standards, under section 284 (b) of such Act.

## **SEC. 299C. RURAL HOUSING AND ECONOMIC DEVELOPMENT ASSISTANCE.**

The Secretary shall--

(1) require each tribe, agency, organization, corporation, and other entity that receives any assistance from the Office of Rural Housing and Economic Development of the Department of Housing and Urban Development to provide that any structures and buildings developed or assisted under activities funded with such amounts complies with the energy efficiency standards under section 284(a) of this subtitle; and

(2) establish incentives to encourage each such tribe, agency, organization, corporation, and other entity to provide that any such structures and buildings comply with the enhanced energy efficiency and conservation standards, and the green building standards, under section 284(b) of such Act.

## **SEC. 299D. LOANS TO STATES AND INDIAN TRIBES TO CARRY OUT RENEWABLE ENERGY SOURCES ACTIVITIES.**

(a) Establishment of Fund- There is established in the Treasury of the United States a fund, to be known as the `Alternative Energy Sources State Loan Fund'.

(b) Expenditures-

(1) IN GENERAL- Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to provide loans under subsection (c)(1).

(2) ADMINISTRATIVE EXPENSES- Of the amounts in the Fund, not more than 5 percent shall be available for each fiscal year to pay the administrative expenses of the Department of Housing and Urban Development to carry out this section.

(c) Loans to States and Indian Tribes-

(1) IN GENERAL- The Secretary shall use amounts in the Fund to provide loans to States and Indian tribes to provide incentives to owners of single-family and multifamily housing, commercial properties, and public buildings to provide--

(A) renewable energy sources for such structures, such as wind, wave, solar, biomass, or geothermal energy sources, including incentives to companies and business to change their source of energy to such renewable energy sources and for changing the sources of energy for public buildings to such renewable energy sources;

(B) energy efficiency and energy conserving improvements and features for such structures; or

(C) infrastructure related to the delivery of electricity and hot water for structures lacking such amenities.

(2) ELIGIBILITY- To be eligible to receive a loan under this subsection, a State or Indian tribe, directly or through an appropriate State or tribal agency, shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(3) CRITERIA FOR APPROVAL- The Secretary may approve an application of a State or Indian tribe under paragraph (2) only if the Secretary determines that the State or tribe will use the funds from the loan under this subsection to carry out a program to provide incentives described in paragraph (1) that--

(A) requires that any such renewable energy sources, and energy efficiency and energy conserving improvements and features, developed pursuant to assistance under the program result in compliance of the structure so improved with energy efficiency requirements determined by the Secretary; and

(B) includes such compliance and audit requirements as the Secretary determines are necessary to ensure that the program is operated in a sound and effective manner.

(4) PREFERENCE- In making loans during each fiscal year, the Secretary shall give preference to States and Indian tribes that have not previously received a loan under this subsection.

(5) MAXIMUM AMOUNT- The aggregate outstanding principal amount from loans under this subsection to any single State or Indian tribe may not exceed \$500,000,000.

(6) LOAN TERMS- Each loan under this subsection shall have a term to maturity of not more than 10 years and shall bear interest at annual rate, determined by the Secretary, that shall not exceed interest rate charged by the Federal Reserve Bank of New York to commercial banks and other depository institutions for very short-term loans under the primary credit program, as most recently published in the Federal Reserve Statistical Release on selected interest rates (daily or weekly), and commonly referred to as the H.15 release, preceding the date of a determination for purposes of applying this paragraph.

(7) LOAN REPAYMENT- The Secretary shall require full repayment of each loan made under this section.

(d) Investment of Amounts-

(1) IN GENERAL- The Secretary of the Treasury shall invest such amounts in the Fund that are not, in the judgment of the Secretary of the Treasury, required to meet needs for current withdrawals.

(2) OBLIGATIONS OF UNITED STATES- Investments may be made only in interest-bearing obligations of the United States.

(e) Reports-

(1) REPORTS TO SECRETARY- For each year during the term of a loan made under subsection (c), the State or Indian tribe that received the loan shall submit to the Secretary a report describing the State or tribal alternative energy sources program for which the loan was made and the activities conducted under the program using the loan funds during that year.

(2) REPORT TO CONGRESS- Not later than September 30 of each year that loans made under subsection (c) are outstanding, the Secretary shall submit a report to the Congress describing the total amount of such loans provided under subsection (c) to each eligible State and Indian tribe during the fiscal year ending on such date, and an evaluation on effectiveness of the Fund.

(f) Authorization of Appropriations- There is authorized to be appropriated to the Fund \$5,000,000,000.

(g) Definitions- For purposes of this section, the following definitions shall apply:

(1) INDIAN TRIBE- The term `Indian tribe' has the meaning given such term in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103).

(2) STATE- The term `State' means each of the several States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, or any other possession of the United States.

## **SEC. 299E. GREEN BANKING CENTERS.**

(a) Insured Depository Institutions- Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end the following new subsection:

`(x) `Green Banking' Centers-

`(1) IN GENERAL- The Federal banking agencies shall prescribe guidelines encouraging the establishment and maintenance of `green banking' centers by insured depository institutions to provide any consumer who seeks information on obtaining a mortgage, home improvement loan, home equity loan, or renewable energy lease with additional information on--

`(A) obtaining an home energy rating or audit for the residence for which such mortgage or loan is sought;

`(B) obtaining financing for cost-effective energy-saving improvements to such property; and

^ (C) obtaining beneficial terms for any mortgage or loan, or qualifying for a larger mortgage or loan, secured by a residence which meets or will meet energy efficiency standards.

^ (2) INFORMATION AND REFERRALS- The information made available to consumers under paragraph (1) may include--

^ (A) information on obtaining a home energy rating and contact information on qualified energy raters in the area of the residence;

^ (B) information on the secondary market guidelines that permit lenders to provide more favorable terms by allowing lenders to increase the ratio on debt-to-income requirements or to use the projected utility savings as a compensating factor;

^ (C) information including eligibility information about, and contact information for, any conservation or renewable energy programs, grants, or loans offered by the Secretary of Housing and Urban Development, including the Energy Efficient Mortgage Program;

^ (D) information including eligibility information about, and contact information for, any conservation or renewable energy programs, grants, or loans offered for qualified military personal, reservists, and veterans by the Secretary of Veterans Affairs;

^ (E) information about, and contact information for, the Office of Efficiency and Renewable Energy at the Department of Energy, including the weatherization assistance program;

^ (F) information about, and contact information for, the Energy Star Program of the Environmental Protection Agency;

^ (G) information from, and contact information for, the Federal Citizen Information Center of the General Services Administration on energy-efficient mortgages and loans, home energy rating systems, and the availability of energy-efficient mortgage information from a variety of Federal agencies; and

^ (H) such other information as the agencies or the insured depository institution may determine to be appropriate or useful.'

(b) Insured Credit Unions- Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

^ (x) ^ Green Banking' Centers-

^ (1) IN GENERAL- The Board shall prescribe guidelines encouraging the establishment and maintenance of ^ green banking' centers by insured credit unions to provide any member who seeks information on obtaining a mortgage, home improvement loan, home equity loan, or renewable energy lease with additional information on--

^ (A) obtaining an home energy rating or audit for the residence for which such mortgage or loan is sought;

^ (B) obtaining financing for cost-effective energy-saving improvements to such property; and

^ (C) obtaining beneficial terms for any mortgage or loan, or qualifying for a larger mortgage or loan, secured by a residence which meets or will meet energy efficiency standards.

^ (2) INFORMATION AND REFERRALS- The information made available to members under paragraph (1) may include--

^ (A) information on obtaining a home energy rating and contact information on qualified energy raters in the area of the residence;

^ (B) information on the secondary market guidelines that permit lenders to provide more favorable terms by allowing lenders to increase the ratio on debt-to-income requirements or to use the projected utility savings as a compensating factor;

^ (C) information including eligibility information about, and contact information for, any conservation or renewable energy programs, grants, or loans offered by the Secretary of Housing and Urban Development, including the Energy Efficient Mortgage Program;

^ (D) information including eligibility information about, and contact information for, any conservation or renewable energy programs, grants, or loans offered for qualified military personal, reservists, and veterans by the Secretary of Veterans Affairs;

^ (E) information about, and contact information for, the Office of Efficiency and Renewable Energy at the Department of Energy, including the weatherization assistance program;

^ (F) information from, and contact information for, the Federal Citizen Information Center of the General Services Administration on energy-efficient mortgages and loans, home energy rating systems, and the availability of energy-efficient mortgage information from a variety of Federal agencies; and

^ (G) such other information as the Board or the insured credit union may determine to be appropriate or useful.'

## **SEC. 299F. GAO REPORTS ON AVAILABILITY OF AFFORDABLE MORTGAGES.**

(a) Study- The Comptroller General of the United States shall periodically, as necessary to comply with subsection (b), examine the impact of this subtitle and the amendments made by this subtitle on the availability of affordable mortgages in various areas throughout the United States, including cities having older infrastructure and limited space for the development of new housing.

(b) Triennial Reports- The Comptroller General shall submit a report once every 3 years to the Committee on Financial Services of the House of Representatives and

the Committee on Banking, Housing, and Urban Affairs of the Senate that shall include--

(1) a detailed statement of the most recent findings pursuant to subsection (a); and

(2) if the Comptroller General finds that this subtitle or the amendments made by this subtitle have directly or indirectly resulted in consequences that limit the availability or affordability of mortgages in any area or areas within the United States, including any city having older infrastructure and limited space for the development of new housing, any recommendations for any additional actions at the Federal, State, or local levels that the Comptroller General considers necessary or appropriate to mitigate such effects.

The first report under this subsection shall be submitted not later than the expiration of the 3-year period beginning on the date of the enactment of this Act.

## **SEC. 299G. PUBLIC HOUSING ENERGY COST REPORT.**

(a) Collection of Information by HUD- The Secretary of Housing and Urban Development shall obtain from each public housing agency, by such time as may be necessary to comply with the reporting requirement under subsection (b), information regarding the energy costs for public housing administered or operated by the agency. For each public housing agency, such information shall include the monthly energy costs associated with each separate building and development of the agency, for the most recently completed 12-month period for which such information is available, and such other information as the Secretary determines is appropriate in determining which public housing buildings and developments are most in need of repairs and improvements to reduce energy needs and costs and become more energy efficient.

(b) Report- Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Congress setting forth the information collected pursuant to subsection (a).

## **SEC. 299H. SECONDARY MARKET FOR RESIDENTIAL RENEWABLE ENERGY LEASE INSTRUMENTS.**

(a) Purposes- The purposes of this section are--

(1) to encourage residential use of renewable energy systems by minimizing up-front costs and providing immediate utility cost savings to consumers through leasing of such systems to homeowners;

(2) to reduce carbon emissions and the use of nonrenewable resources;

(3) to encourage energy-efficient residential construction and rehabilitation;

(4) to encourage the use of renewable resources by homeowners;

(5) to minimize the impact of development on the environment;

(6) to reduce consumer utility costs; and

(7) to encourage private investment in the green economy.

(b) Residual Value of Renewable Energy Asset- The Secretary of Housing and Urban Development shall establish a means of determining the residual value of a renewable energy asset such that a secondary market for residential renewable energy lease instruments may be facilitated. Such means may include, without limitation, the calculation of residual value based on the net present value of projected future energy production of the renewable energy asset.

## **SEC. 299I. GREEN GUARANTEES.**

(a) Authority To Guarantee `Green Portion' of Eligible Mortgages-

(1) IN GENERAL- The Secretary of Housing and Urban Development may make commitments to guarantee under this section and may guarantee, the repayment of the portions of the principal obligations of eligible mortgages that are used to finance eligible sustainable building elements for the housing that is subject to the mortgage.

(2) AMOUNT OF GUARANTEE- A guarantee under this section by the Secretary in connection with an eligible mortgage shall not exceed a percentage of the green portion (as such term is defined in subsection (g)) of the mortgage, as shall be established by the Secretary and may be established on a regional basis as the Secretary determines appropriate.

(b) Eligible Mortgages- To be considered an eligible mortgage for purposes of this section, a mortgage shall comply with all of the following requirements:

(1) ACQUISITION OR CONSTRUCTION OF HOUSING- The mortgage shall be made for the acquisition or construction of single- or multifamily housing and repayment of the mortgage shall be secured by an interest in such housing.

(2) FINANCING OF ELIGIBLE SUSTAINABLE BUILDING ELEMENTS THROUGH GREEN PORTION OF MORTGAGE- A portion of the principal obligation of the mortgage, which meets the requirements under subsection (c), shall be used only for financing the provision of eligible sustainable building elements for the housing for which the mortgage was made.

(3) MAXIMUM MORTGAGE AMOUNT- The principal obligation of the mortgage (including the eligible portion of such mortgage, and such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) may not exceed the following amounts:

(A) SINGLE-FAMILY HOUSING- Such dollar amounts for single-family housing as the Secretary shall establish, which may be established on the basis of the number of dwelling units in the housing, as the Secretary considers appropriate.

(B) MULTIFAMILY HOUSING- Such dollar amounts for multifamily housing as the Secretary shall establish, which may be established on the basis of the number of dwelling units in the housing and the number

of bedrooms in such dwelling units, as the Secretary considers appropriate.

(4) REPAYMENT- The mortgage meets such requirements as the Secretary shall establish to ensure that there is a reasonable prospect of repayment of the principal and interest on the obligation by the mortgagor.

(5) MORTGAGE TERMS- The mortgage shall meet such requirements with respect to loan-to-value ratio, mortgagor credit scores, debt-to-income ratio, and other underwriting standards, term to maturity, interest rates and amortization, including amortization of the green portion of the mortgage, and other mortgage terms as the Secretary shall establish.

(c) Limitations on Green Portion of Mortgage- The requirements under this subsection with respect to the green portion of an eligible mortgage are as follows:

(1) PERCENTAGE LIMITATION- Such portion shall not exceed, in the case of single-family or multifamily housing, 10 percent of the total principal obligation of the mortgage.

(2) DOLLAR AMOUNT LIMITATION- Such portion shall not exceed--

(A) in the case of single-family housing, such maximum dollar amount limitation as the Secretary shall establish, which may be established on the basis of the number of dwelling units in the housing, as the Secretary considers appropriate; and

(B) in the case of multifamily housing, such maximum dollar amount limitation as the Secretary shall establish, which limitation may be established on the basis of the number of dwelling units in the housing and the number of bedrooms in such dwelling units, as the Secretary considers appropriate.

(3) COST-EFFECTIVENESS LIMITATION- Such portion shall not exceed the total present value of the savings (as determined in accordance with subsection (d)) attributable to the incorporation of the eligible sustainable building elements to be financed with the green portion of the mortgage that are to be realized over the useful life of such elements.

(d) Eligible Sustainable Building Elements- The Secretary may not guarantee any eligible mortgage under this section unless the mortgagor has demonstrated, in accordance with such requirements as the Secretary shall establish, the amount of savings attributable to incorporation of the sustainable building elements to be financed with the green portion of the mortgage, as measured by the National Green Building Standard for all residential construction developed by the National Association of Home Builders and the U.S. Green Building Council, and approved by the American National Standards Institute, as updated and in effect at the time of such demonstration.

(e) Guarantee Fee-

(1) ASSESSMENT AND COLLECTION- The Secretary shall assess and collect fees for guarantees under this section in amounts that the Secretary determines are sufficient to cover the costs (as such term is defined in section

502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of such guarantees.

(2) AVAILABILITY- Fees collected under this subsection shall be deposited by the Secretary in the Treasury of the United States and shall remain available until expended, subject to such other conditions as are contained in annual appropriations Acts.

(f) Payment of Guarantee-

(1) DEFAULT-

(A) RIGHT TO PAYMENT- If a mortgagor under a mortgage guaranteed under this section defaults (as defined in regulations issued by the Secretary and specified in the guarantee contract) on the obligation under the mortgage--

(i) the holder of the guarantee shall have the right to demand payment of the unpaid amount of the guaranteed portion of the mortgage, to the extent provided under subsection (a)(2), from the Secretary; and

(ii) within such period as may be specified in the guarantee or related agreements, the Secretary shall pay to the holder of the guarantee, to the extent provided under subsection (a)(2), the unpaid interest on, and unpaid principal of the portion of guaranteed portion of the mortgage with respect to which the borrower has defaulted, unless the Secretary finds that there was no default by the borrower in the payment of interest or principal or that the default has been remedied.

(B) FORBEARANCE- Nothing in this paragraph precludes any forbearance by the holder of an eligible mortgage for the benefit of the mortgagor which may be agreed upon by the parties to the mortgage and approved by the Secretary.

(2) SUBROGATION-

(A) IN GENERAL- If the Secretary makes a payment under paragraph (1), the Secretary shall be subrogated to the rights of the recipient of the payment as specified in the guarantee or related agreements including, if appropriate, the authority (notwithstanding any other provision of law)--

(i) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements; or

(ii) to permit the mortgagor, pursuant to an agreement with the Secretary, to continue to occupy the property subject to the mortgage, if the Secretary determines such occupancy to be appropriate.

(B) SUPERIORITY OF RIGHTS- The rights of the Secretary, with respect to any property acquired pursuant to a guarantee or related agreements, shall be superior to the rights of any other person with respect to the property.

(C) TERMS AND CONDITIONS- A guarantee agreement shall include such detailed terms and conditions as the Secretary determines appropriate to protect the interests of the United States in the case of default.

(3) FULL FAITH AND CREDIT- The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

(g) Definitions- For purposes of this section, the following definitions shall apply:

(1) ELIGIBLE MORTGAGE- The term `eligible mortgage' means a mortgage that meets the requirements under subsection (b).

(2) GREEN PORTION- The term `green portion' means, with respect to an eligible mortgage, the portion of the mortgage principal referred to in subsection (b)(2) that is attributable, as determined in accordance with regulations issued by the Secretary, to the increased costs incurred in financing provision of sustainable building elements for the housing for which the mortgage was made, as compared to the costs that would have been incurred in financing the provision of other building elements for the housing for the same purposes that are commonly or conventionally used but are not sustainable building elements.

(3) GUARANTEED PORTION- The term `guaranteed portion' means, with respect to an eligible mortgage guaranteed under this section, the green portion of the mortgage that is so guaranteed.

(4) MORTGAGE- The term `mortgage' has the meaning given such term in section 201 of the National Housing Act (12 U.S.C. 1707).

(5) MULTIFAMILY HOUSING- The term `multifamily housing' means a residential property consisting of five or more dwelling units.

(6) SECRETARY- The term `Secretary' means the Secretary of Housing and Urban Development.

(7) SINGLE-FAMILY HOUSING- The term `single-family housing' means a residential property consisting of one to four dwelling units.

(8) SUSTAINABLE BUILDING ELEMENT- The term `sustainable building element' means such building elements, as the Secretary shall define, that have energy efficiency or environmental sustainability qualities that are superior to such qualities for other building elements for the same purposes that are commonly or conventionally used.

(h) Authorization of Appropriations- There is authorized to be appropriated for costs (as such term is defined in section 502 of the Federal Credit Reform Act of

1990 (2 U.S.C. 661a) of guarantees under this section \$500,000,000 for each of fiscal years 2010 through 2014.

(i) Regulations- The Secretary shall issue any regulations necessary to carry out this section.

### **TITLE III--REDUCING GLOBAL WARMING POLLUTION**

#### **SEC. 301. SHORT TITLE.**

This title, and sections 112, 116, 221, 222, 223, and 401 of this Act, and the amendments made by this title and those sections, may be cited as the ` Safe Climate Act'.

#### **Subtitle A--Reducing Global Warming Pollution**

#### **SEC. 311. REDUCING GLOBAL WARMING POLLUTION.**

The Clean Air Act (42 U.S.C. and following) is amended by adding after title VI the following new title:

#### **` TITLE VII--GLOBAL WARMING POLLUTION REDUCTION PROGRAM**

#### ***` PART A--GLOBAL WARMING POLLUTION REDUCTION GOALS AND TARGETS***

#### ***` SEC. 701. FINDINGS AND PURPOSE.***

*` (a) Findings- The Congress finds as follows:*

*` (1) Global warming poses a significant threat to the national security, economy, public health and welfare, and environment of the United States, as well as of other nations.*

*` (2) Reviews of scientific studies, including by the Intergovernmental Panel on Climate Change and the National Academy of Sciences, demonstrate that global warming is the result of the combined anthropogenic greenhouse gas emissions from numerous sources of all types and sizes. Each increment of emission, when combined with other emissions, causes or contributes materially to the acceleration and extent of global warming and its adverse effects for the lifetime of such gas in the atmosphere. Accordingly, controlling emissions in small as well as large amounts is essential to prevent, slow the pace of, reduce the threats from, and mitigate global warming and its adverse effects.*

*` (3) Because they induce global warming, greenhouse gas emissions cause or contribute to injuries to persons in the United States, including--*

*` (A) adverse health effects such as disease and loss of life;*

*` (B) displacement of human populations;*

^ (C) damage to property and other interests related to ocean levels, acidification, and ice changes;

^ (D) severe weather and seasonal changes;

^ (E) disruption, costs, and losses to business, trade, employment, farms, subsistence, aesthetic enjoyment of the environment, recreation, culture, and tourism;

^ (F) damage to plants, forests, lands, and waters;

^ (G) harm to wildlife and habitat;

^ (H) scarcity of water and the decreased abundance of other natural resources;

^ (I) worsening of tropospheric air pollution;

^ (J) substantial threats of similar damage; and

^ (K) other harm.

^ (4) That many of these effects and risks of future effects of global warming are widely shared does not minimize the adverse effects individual persons have suffered, will suffer, and are at risk of suffering because of global warming.

^ (5) That some of the adverse and potentially catastrophic effects of global warming are at risk of occurring and not a certainty does not negate the harm persons suffer from actions that increase the likelihood, extent, and severity of such future impacts.

^ (6) Nations of the world look to the United States for leadership in addressing the threat of and harm from global warming. Full implementation of the Safe Climate Act is critical to engage other nations in an international effort to mitigate the threat of and harm from global warming.

^ (7) Global warming and its adverse effects are occurring and are likely to continue and increase in magnitude, and to do so at a greater and more harmful rate, unless the Safe Climate Act is fully implemented and enforced in an expeditious manner.

^ (b) Purpose- It is the general purpose of the Safe Climate Act to help prevent, reduce the pace of, mitigate, and remedy global warming and its adverse effects. To fulfill such purpose, it is necessary to--

^ (1) require the timely fulfillment of all governmental acts and duties, both substantive and procedural, and the prompt compliance of covered entities with the requirements of the Safe Climate Act;

^ (2) establish and maintain an effective, transparent, and fair market for emission allowances and preserve the integrity of the cap on emissions and of offset credits;

^ (3) advance the production and deployment of clean energy and energy efficiency technologies; and

^ (4) ensure effective enforcement of the Safe Climate Act by citizens, States, Indian tribes, and all levels of government because each violation of the Safe Climate Act is likely to result in an additional increment of greenhouse gas emission and will slow the pace of implementation of the Safe Climate Act and delay the achievement of the goals set forth in section 702, and cause or contribute to global warming and its adverse effects.

## **^ SEC. 702. ECONOMY-WIDE REDUCTION GOALS.**

^ The goals of the Safe Climate Act are to reduce steadily the quantity of United States greenhouse gas emissions such that--

^ (1) in 2012, the quantity of United States greenhouse gas emissions does not exceed 97 percent of the quantity of United States greenhouse gas emissions in 2005;

^ (2) in 2020, the quantity of United States greenhouse gas emissions does not exceed 80 percent of the quantity of United States greenhouse gas emissions in 2005;

^ (3) in 2030, the quantity of United States greenhouse gas emissions does not exceed 58 percent of the quantity of United States greenhouse gas emissions in 2005; and

^ (4) in 2050, the quantity of United States greenhouse gas emissions does not exceed 17 percent of the quantity of United States greenhouse gas emissions in 2005.

## **^ SEC. 703. REDUCTION TARGETS FOR SPECIFIED SOURCES.**

^ (a) In General- The regulations issued under section 721 shall cap and reduce annually the greenhouse gas emissions of capped sources each calendar year beginning in 2012 such that--

^ (1) in 2012, the quantity of greenhouse gas emissions from capped sources does not exceed 97 percent of the quantity of greenhouse gas emissions from such sources in 2005;

^ (2) in 2020, the quantity of greenhouse gas emissions from capped sources does not exceed 83 percent of the quantity of greenhouse gas emissions from such sources in 2005;

^ (3) in 2030, the quantity of greenhouse gas emissions from capped sources does not exceed 58 percent of the quantity of greenhouse gas emissions from such sources in 2005; and

^ (4) in 2050, the quantity of greenhouse gas emissions from capped sources does not exceed 17 percent of the quantity of greenhouse gas emissions from such sources in 2005.

“(b) Definition- For purposes of this section, the term “greenhouse gas emissions from such sources in 2005” means emissions to which section 722 would have applied if the requirements of this title for the specified year had been in effect for 2005.

#### “ SEC. 704. SUPPLEMENTAL POLLUTION REDUCTIONS.

“ For the purposes of decreasing the likelihood of catastrophic climate change, preserving tropical forests, building capacity to generate offset credits, and facilitating international action on global warming, the Administrator shall set aside the percentage specified in section 781 of the quantity of emission allowances established under section 721(a) for each year, to be used to achieve a reduction of greenhouse gas emissions from deforestation in developing countries in accordance with part E. In 2020, activities supported under part E shall provide greenhouse gas reductions in an amount equal to an additional 10 percentage points of reductions from United States greenhouse gas emissions in 2005. The Administrator shall distribute these allowances with respect to activities in countries that enter into and implement agreements or arrangements relating to reduced deforestation as described in section 754(a)(2).

#### “ SEC. 705. REVIEW AND PROGRAM RECOMMENDATIONS.

“(a) In General- The Administrator shall, in consultation with appropriate Federal agencies, submit to Congress a report not later than July 1, 2013, and every 4 years thereafter, that includes--

“(1) an analysis of key findings based on the latest scientific information and data relevant to global climate change;

“(2) an analysis of capabilities to monitor and verify greenhouse gas reductions on a worldwide basis, including for the United States, as required under the Safe Climate Act; and

“(3) an analysis of the status of worldwide greenhouse gas reduction efforts, including implementation of the Safe Climate Act and other policies, both domestic and international, for reducing greenhouse gas emissions, preventing dangerous atmospheric concentrations of greenhouse gases, preventing significant irreversible consequences of climate change, and reducing vulnerability to the impacts of climate change.

“(b) Exception- Paragraph (3) of subsection (a) shall not apply to the first report submitted under such subsection.

“(c) Latest Scientific Information- The analysis required under subsection (a)(1) shall--

“(1) address existing scientific information and reports, considering, to the greatest extent possible, the most recent assessment report of the Intergovernmental Panel on Climate Change, reports by the United States Global Change Research Program, the Natural Resources Climate Change Adaptation Panel established under section 475 of the American Clean Energy

and Security Act of 2009, and Federal agencies, and the European Union's global temperature data assessment; and

^ (2) review trends and projections for--

^ (A) global and country-specific annual emissions of greenhouse gases, and cumulative greenhouse gas emissions produced between 1850 and the present, including--

^ (i) global cumulative emissions of anthropogenic greenhouse gases;

^ (ii) global annual emissions of anthropogenic greenhouse gases; and

^ (iii) by country, annual total, annual per capita, and cumulative anthropogenic emissions of greenhouse gases for the top 50 emitting nations;

^ (B) significant changes, both globally and by region, in annual net non-anthropogenic greenhouse gas emissions from natural sources, including permafrost, forests, or oceans;

^ (C) global atmospheric concentrations of greenhouse gases, expressed in annual concentration units as well as carbon dioxide equivalents based on 100-year global warming potentials;

^ (D) major climate forcing factors, such as aerosols;

^ (E) global average temperature, expressed as seasonal and annual averages in land, ocean, and land-plus-ocean averages; and

^ (F) sea level rise;

^ (3) assess the current and potential impacts of global climate change on--

^ (A) human populations, including impacts on public health, economic livelihoods, subsistence, human infrastructure, and displacement or permanent relocation due to flooding, severe weather, extended drought, erosion, or other ecosystem changes;

^ (B) freshwater systems, including water resources for human consumption and agriculture and natural and managed ecosystems, flood and drought risks, and relative humidity;

^ (C) the carbon cycle, including impacts related to the thawing of permafrost, the frequency and intensity of wildfire, and terrestrial and ocean carbon sinks;

^ (D) ecosystems and animal and plant populations, including impacts on species abundance, phenology, and distribution;

- ˘ (E) oceans and ocean ecosystems, including effects on sea level, ocean acidity, ocean temperatures, coral reefs, ocean circulation, fisheries, and other indicators of ocean ecosystem health;
  - ˘ (F) the cryosphere, including effects on ice sheet mass balance, mountain glacier mass balance, and sea-ice extent and volume;
  - ˘ (G) changes in the intensity, frequency, or distribution of severe weather events, including precipitation, tropical cyclones, tornadoes, and severe heat waves;
  - ˘ (H) agriculture and forest systems; and
  - ˘ (I) any other indicators the Administrator deems appropriate;
- ˘ (4) summarize any significant socio-economic impacts of climate change in the United States, including the territories of the United States, drawing on work by Federal agencies and the academic literature, including impacts on--
- ˘ (A) public health;
  - ˘ (B) economic livelihoods and subsistence;
  - ˘ (C) displacement or permanent relocation due to flooding, severe weather, extended drought, erosion, or other ecosystem changes;
  - ˘ (D) human infrastructure, including coastal infrastructure vulnerability to extreme events and sea level rise, river floodplain infrastructure, and sewer and water management systems;
  - ˘ (E) agriculture and forests, including effects on potential growing season, distribution, and yield;
  - ˘ (F) water resources for human consumption, agriculture and natural and managed ecosystems, flood and drought risks, and relative humidity;
  - ˘ (G) energy supply and use; and
  - ˘ (H) transportation;
- ˘ (5) in assessing risks and impacts, use a risk management framework, including both qualitative and quantitative measures, to assess the observed and projected impacts of current and future climate change, accounting for--
- ˘ (A) both monetized and non-monetized losses;
  - ˘ (B) potential nonlinear, abrupt, or essentially irreversible changes in the climate system;
  - ˘ (C) potential nonlinear increases in the cost of impacts;
  - ˘ (D) potential low-probability, high impact events; and
  - ˘ (E) whether impacts are transitory or essentially permanent; and

^ (6) based on the findings of the Administrator under this section, as well as assessments produced by the Intergovernmental Panel on Climate Change, the United States Global Change Research program, and other relevant scientific entities--

^ (A) describe increased risks to natural systems and society that would result from an increase in global average temperature 3.6 degrees Fahrenheit (2 degrees Celsius) above the pre-industrial average or an increase in atmospheric greenhouse gas concentrations above 450 parts per million carbon dioxide equivalent; and

^ (B) identify and assess--

^ (i) significant residual risks not avoided by the thresholds described in subparagraph (A);

^ (ii) alternative thresholds or targets that may more effectively limit the risks identified pursuant to clause (i); and

^ (iii) thresholds above those described in subparagraph (A) which significantly increase the risk of certain impacts or render them essentially permanent.

^ (d) Status of Monitoring and Verification Capabilities to Evaluate Greenhouse Gas Reduction Efforts- The analysis required under subsection (a)(2) shall evaluate the capabilities of the monitoring, reporting, and verification systems used to quantify progress in achieving reductions in greenhouse gas emissions both globally and in the United States (as described in section 702), including--

^ (1) quantification of emissions and emission reductions by entities participating in the cap and trade program under this title;

^ (2) quantification of emissions and emission reductions by entities participating in the offset program under this title;

^ (3) quantification of emission and emissions reductions by entities regulated by performance standards;

^ (4) quantification of aggregate net emissions and emissions reductions by the United States; and

^ (5) quantification of global changes in net emissions and in sources and sinks of greenhouse gases.

^ (e) Status of Greenhouse Gas Reduction Efforts- The analysis required under subsection (a)(3) shall address--

^ (1) whether the programs under Safe Climate Act and other Federal statutes are resulting in sufficient United States greenhouse gas emissions reductions to meet the emissions reduction goals described in section 702, taking into account the use of offsets; and

^ (2) whether United States actions, taking into account international actions, commitments, and trends, and considering the range of plausible emissions scenarios, are sufficient to avoid--

^ (A) atmospheric greenhouse gas concentrations above 450 parts per million carbon dioxide equivalent;

^ (B) global average surface temperature 3.6 degrees Fahrenheit (2 degrees Celsius) above the pre-industrial average, or such other temperature thresholds as the Administrator deems appropriate; and

^ (C) other temperature or greenhouse gas thresholds identified pursuant to subsection (c)(6)(B).

^ (f) Recommendations-

^ (1) LATEST SCIENTIFIC INFORMATION- Based on the analysis described in subsection (a)(1), each report under subsection (a) shall identify actions that could be taken to--

^ (A) improve the characterization of changes in the earth-climate system and impacts of global climate change;

^ (B) better inform decision making and actions related to global climate change;

^ (C) mitigate risks to natural and social systems; and

^ (D) design policies to better account for climate risks.

^ (2) MONITORING, REPORTING AND VERIFICATION- Based on the analysis described in subsection (a)(2), each report under subsection (a) shall identify key gaps in measurement, reporting, and verification capabilities and make recommendations to improve the accuracy and reliability of those capabilities.

^ (3) STATUS OF GREENHOUSE GAS REDUCTION EFFORTS- Based on the analysis described in subsection (a)(3), taking into account international actions, commitments, and trends, and considering the range of plausible emissions scenarios, each report under subsection (a) shall identify--

^ (A) the quantity of additional reductions required to meet the emissions reduction goals in section 702;

^ (B) the quantity of additional reductions in global greenhouse gas emissions needed to avoid the concentration and temperature thresholds identified in subsection (e); and

^ (C) possible strategies and approaches for achieving additional reductions.

^ (g) Authorization of Appropriations- There are authorized to be appropriated to carry out this section such sums as may be necessary.

**SEC. 706. NATIONAL ACADEMY REVIEW.**

(a) In General- Not later than 1 year after the date of enactment of this title, the Administrator shall offer to enter into a contract with the National Academy of Sciences (in this section referred to as the 'Academy') under which the Academy shall, not later than July 1, 2014, and every 4 years thereafter, submit to Congress and the Administrator a report that includes--

(1) a review of the most recent report and recommendations issued under section 705; and

(2) an analysis of technologies to achieve reductions in greenhouse gas emissions.

(b) Failure to Issue a Report- In the event that the Administrator has not issued all or part of the most recent report required under section 705, the Academy shall conduct its own review and analysis of the required information.

(c) Technological Information- The analysis required under subsection (a)(2) shall --

(1) review existing technological information and reports, including the most recent reports by the Department of Energy, the United States Global Change Research Program, the Intergovernmental Panel on Climate Change, and the International Energy Agency and any other relevant information on technologies or practices that reduce or limit greenhouse gas emissions;

(2) include the participation of technical experts from relevant private industry sectors;

(3) review the current and future projected deployment of technologies and practices in the United States that reduce or limit greenhouse gas emissions, including--

(A) technologies for capture and sequestration of greenhouse gases;

(B) technologies to improve energy efficiency;

(C) low- or zero-greenhouse gas emitting energy technologies;

(D) low- or zero-greenhouse gas emitting fuels;

(E) biological sequestration practices and technologies; and

(F) any other technologies the Academy deems relevant; and

(4) review and compare the emissions reduction potential, commercial viability, market penetration, investment trends, and deployment of the technologies described in paragraph (3), including--

(A) the need for additional research and development, including publicly funded research and development;

^ (B) the extent of commercial deployment, including, where appropriate, a comparison to the cost and level of deployment of conventional fossil fuel-fired energy technologies and devices; and

^ (C) an evaluation of any substantial technological, legal, or market-based barriers to commercial deployment.

^ (d) Recommendations-

^ (1) LATEST SCIENTIFIC INFORMATION- Based on the review described in subsection (a)(1), the Academy shall identify actions that could be taken to--

^ (A) improve the characterization of changes in the earth-climate system and impacts of global climate change;

^ (B) better inform decision making and actions related to global climate change;

^ (C) mitigate risks to natural and social systems;

^ (D) design policies to better account for climate risks; and

^ (E) improve the accuracy and reliability of capabilities to monitor, report, and verify greenhouse gas emissions reduction efforts.

^ (2) TECHNOLOGICAL INFORMATION- Based on the analysis described in subsection (a)(2), the Academy shall identify--

^ (A) additional emissions reductions that may be possible as a result of technologies described in the analysis;

^ (B) barriers to the deployment of such technologies; and

^ (C) actions that could be taken to speed deployment of such technologies.

^ (3) STATUS OF GREENHOUSE GAS REDUCTION EFFORTS- Based on the review described in subsection (a)(1), the Academy shall identify--

^ (A) the quantity of additional reductions required to meet the emissions reduction goals described in section 702; and

^ (B) the quantity of additional reductions in global greenhouse gas emissions needed to avoid the concentration and temperature thresholds described in section 705(c)(6)(A) or identified pursuant to section 705(c)(6)(B).

^ (e) Authorization of Appropriations- There are authorized to be appropriated to carry out this section such sums as may be necessary.

## ^ **SEC. 707. PRESIDENTIAL RESPONSE AND RECOMMENDATIONS.**

^ (a) Agency Actions- The President shall direct relevant Federal agencies to use existing statutory authority to take appropriate actions identified in the reports

submitted under sections 705 and 706, and to address any shortfalls identified in such reports, not later than July 1, 2015, and every 4 years thereafter.

^ (b) Plan- In the event that the Administrator or the National Academy of Sciences has concluded, in the most recent report submitted under section 705 or 706 respectively, that the United States will not achieve the necessary domestic greenhouse gas emissions reductions, or that global actions will not maintain safe global average surface temperature and atmospheric greenhouse gas concentration thresholds, the President shall, not later than July 1, 2015, and every 4 years thereafter, submit to Congress a plan identifying domestic and international actions that will achieve necessary additional greenhouse gas reductions, including any recommendations for legislative action.

## ***^ PART B--DESIGNATION AND REGISTRATION OF GREENHOUSE GASES***

### **^ SEC. 711. DESIGNATION OF GREENHOUSE GASES.**

^ (a) Greenhouse Gases- For purposes of this title, the following are greenhouse gases:

^ (1) Carbon dioxide.

^ (2) Methane.

^ (3) Nitrous oxide.

^ (4) Sulfur hexafluoride.

^ (5) Hydrofluorocarbons emitted from a chemical manufacturing process at an industrial stationary source.

^ (6) Any perfluorocarbon.

^ (7) Nitrogen trifluoride.

^ (8) Any other anthropogenic gas designated as a greenhouse gas by the Administrator under this section.

^ (b) Determination on Administrator's Initiative- The Administrator shall, by rule--

^ (1) determine whether 1 metric ton of another anthropogenic gas makes the same or greater contribution to global warming over 100 years as 1 metric ton of carbon dioxide;

^ (2) determine the carbon dioxide equivalent value for each gas with respect to which the Administrator makes an affirmative determination under paragraph (1);

^ (3) for each gas with respect to which the Administrator makes an affirmative determination under paragraph (1) and that is used as a substitute for a class I or class II substance under title VI, determine the

extent to which to regulate that gas under section 619 and specify appropriate compliance obligations under section 619;

^ (4) designate as a greenhouse gas for purposes of this title each gas for which the Administrator makes an affirmative determination under paragraph (1), to the extent that it is not regulated under section 619; and

^ (5) specify the appropriate compliance obligations under this title for each gas designated as a greenhouse gas under paragraph (4).

^ (c) Petitions to Designate a Greenhouse Gas-

^ (1) IN GENERAL- Any person may petition the Administrator to designate as a greenhouse gas any anthropogenic gas 1 metric ton of which makes the same or greater contribution to global warming over 100 years as 1 metric ton of carbon dioxide.

^ (2) CONTENTS OF PETITION- The petitioner shall provide sufficient data, as specified by rule by the Administrator, to demonstrate that the gas is likely to be designated as a greenhouse gas and is likely to be produced, imported, used, or emitted in the United States. To the extent practicable, the petitioner shall also identify producers, importers, distributors, users, and emitters of the gas in the United States.

^ (3) REVIEW AND ACTION BY THE ADMINISTRATOR- Not later than 90 days after receipt of a petition under paragraph (2), the Administrator shall determine whether the petition is complete and notify the petitioner and the public of the decision.

^ (4) ADDITIONAL INFORMATION- The Administrator may require producers, importers, distributors, users, or emitters of the gas to provide information on the contribution of the gas to global warming over 100 years compared to carbon dioxide.

^ (5) TREATMENT OF PETITION- For any substance used as a substitute for a class I or class II substance under title VI, the Administrator may elect to treat a petition under this subsection as a petition to list the substance as a class II, group II substance under section 619, and may require the petition to be amended to address listing criteria promulgated under that section.

^ (6) DETERMINATION- Not later than 2 years after receipt of a complete petition, the Administrator shall, after notice and an opportunity for comment

--

^ (A) issue and publish in the Federal Register--

^ (i) a determination that 1 metric ton of the gas does not make a contribution to global warming over 100 years that is equal to or greater than that made by 1 metric ton of carbon dioxide; and

^ (ii) an explanation of the decision; or

^ (B) determine that 1 metric ton of the gas makes a contribution to global warming over 100 years that is equal to or greater than that

made by 1 metric ton of carbon dioxide, and take the actions described in subsection (b) with respect to such gas.

^ (7) GROUNDS FOR DENIAL- The Administrator may not deny a petition under this subsection solely on the basis of inadequate Environmental Protection Agency resources or time for review.

^ (d) Science Advisory Board Consultation-

^ (1) CONSULTATION- The Administrator shall--

^ (A) give notice to the Science Advisory Board prior to making a determination under subsection (b)(1), (c)(6), or (e)(2)(B);

^ (B) consider the written recommendations of the Science Advisory Board under paragraph (2) regarding the determination; and

^ (C) consult with the Science Advisory Board regarding such determination, including consultation subsequent to receipt of such written recommendations.

^ (2) FORMULATION OF RECOMMENDATIONS- Upon receipt of notice under paragraph (1)(A) regarding a pending determination under subsection (b)(1), (c)(6), or (e)(2)(B), the Science Advisory Board shall--

^ (A) formulate recommendations regarding such determination, subject to a peer review process; and

^ (B) submit such recommendations in writing to the Administrator.

^ (e) Manufacturing and Emission Notices-

^ (1) NOTICE REQUIREMENT-

^ (A) IN GENERAL- Effective 24 months after the date of enactment of this title, no person may manufacture or introduce into interstate commerce a fluorinated gas, or emit a significant quantity, as determined by the Administrator, of any fluorinated gas that is generated as a byproduct during the production or use of another fluorinated gas, unless--

^ (i) the gas is designated as a greenhouse gas under this section or is an ozone-depleting substance listed as a class I or class II substance under title VI;

^ (ii) the Administrator has determined that 1 metric ton of such gas does not make a contribution to global warming over 100 years that is equal to or greater than that made by 1 metric ton of carbon dioxide; or

^ (iii) the person manufacturing or importing the gas for distribution into interstate commerce, or emitting the gas, has submitted to the Administrator, at least 90 days before the start of such manufacture, introduction into commerce, or emission, a

notice of such person's manufacture, introduction into commerce, or emission of such gas, and the Administrator has not determined that that notice or a substantially similar notice submitted by that person is incomplete.

^ (B) ALTERNATIVE COMPLIANCE- For a gas that is a substitute for a class I or class II substance under title VI and either has been listed as acceptable for use under section 612 or is currently subject to evaluation under section 612, the Administrator may accept the notice and information provided pursuant to that section as fulfilling the obligation under clause (iii) of subparagraph (A).

^ (2) REVIEW AND ACTION BY THE ADMINISTRATOR-

^ (A) COMPLETENESS- Not later than 90 days after receipt of notice under paragraph (1)(A)(iii) or (B), the Administrator shall determine whether the notice is complete.

^ (B) DETERMINATION- If the Administrator determines that the notice is complete, the Administrator shall, after notice and an opportunity for comment, not later than 12 months after receipt of the notice--

^ (i) issue and publish in the Federal Register--

^ (I) a determination that 1 metric ton of the gas does not make a contribution to global warming over 100 years that is equal to or greater than that made by 1 metric ton of carbon dioxide; and

^ (II) an explanation of the decision; or

^ (ii) determine that 1 metric ton of the gas makes a contribution to global warming over 100 years that is equal to or greater than that made by 1 metric ton of carbon dioxide, and take the actions described in subsection (b) with respect to such gas.

^ (f) Regulations- Not later than 1 year after the date of enactment of this title, the Administrator shall promulgate regulations to carry out this section. Such regulations shall include--

^ (1) requirements for the contents of a petition submitted under subsection (c);

^ (2) requirements for the contents of a notice required under subsection (e); and

^ (3) methods and standards for evaluating the carbon dioxide equivalent value of a gas.

^ (g) Gases Regulated Under Title VI- The Administrator shall not designate a gas as a greenhouse gas under this section to the extent that the gas is regulated under title VI.

^ (h) Savings Clause- Nothing in this section shall be interpreted to relieve any person from complying with the requirements of section 612.

**^ SEC. 712. CARBON DIOXIDE EQUIVALENT VALUE OF GREENHOUSE GASES.**

^ (a) Measure of Quantity of Greenhouse Gases- Any provision of this title or title VIII that refers to a quantity or percentage of a quantity of greenhouse gases shall mean the quantity or percentage of the greenhouse gases expressed in carbon dioxide equivalents.

^ (b) Initial Value- Except as provided by the Administrator under this section or section 711--

^ (1) the carbon dioxide equivalent value of greenhouse gases for purposes of this Act shall be as follows:

^ CARBON DIOXIDE EQUIVALENT OF 1 TON OF LISTED GREENHOUSE GASES

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