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H.R.2454

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

SEC. 131. ESTABLISHMENT OF SEED ACCOUNTS.

(a) Definitions- In this section:

(1) SEED ACCOUNT- The term `SEED Account' means a State Energy and Environment Development Account established pursuant to this section.

(2) STATE ENERGY OFFICE- The term `State Energy Office' means a State entity eligible for grants under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

(b) Establishment of Program- The Administrator shall establish a program under which a State, through its State Energy Office or other State agency designated by the State, may operate a State Energy and Environment Development Account.

(c) Purpose- The purpose of each SEED Account is to serve as a common State-level repository for managing and accounting for emission allowances provided to States designated for renewable energy and energy efficiency purposes.

(d) Regulations- Not later than 1 year after the date of enactment of this Act, the Administrator shall promulgate regulations to carry out this section, including regulations--

(1) to ensure that each State operates its SEED Account and any subaccounts thereof efficiently and in accordance with this Act and applicable State and Federal laws;

(2) to prevent waste, fraud, and abuse;

(3) to indicate the emission allowances that may be deposited in a State's SEED Account pending distribution or use;

(4) to indicate the programs and objectives authorized by Federal law for which emission allowances in a SEED Account may be distributed or used;

(5) to identify the forms of financial assistance and incentives that States may provide through distribution or use of SEED Accounts; and

(6) to prescribe the form and content of reports that the States are required to submit under this section on the use of SEED Accounts.

(e) Operation-

(1) DEPOSITS-

(A) IN GENERAL- In the allowance tracking system established pursuant to section 724(d) of the Clean Air Act, the Administrator shall establish a SEED Account for each State and place in it the allowances allocated pursuant to section 782(g) of the Clean Air Act to be distributed to States pursuant to sections 132 and 201 of this Act.

(B) FINANCIAL ACCOUNT- A State may create a financial account associated with its SEED Account to deposit, retain, and manage any proceeds of any sale of any allowance provided pursuant to this Act pending expenditure or disbursement of those proceeds for purposes permitted under this section. The funds in such an account shall not be commingled with other funds not derived from the sale of allowances provided to the State; however, loans made by the State from such funds pursuant to paragraph (2)(C)(i) may be repaid into such a financial account, including any interest charged.

(2) WITHDRAWALS-

(A) IN GENERAL- All allowances distributed pursuant to sections 132 and 201, including the proceeds of any sale of such allowances, shall support renewable energy and energy efficiency programs authorized or approved by the Federal Government.

(B) DEDICATED ALLOWANCES- Allowances distributed pursuant to sections 132 and 201 that are required by law to be used for specific purposes for a specified period shall be used according to those requirements during that period.

(C) UNDEDICATED ALLOWANCES- To the extent that allowances distributed pursuant to sections 132 and 201 are not required by law to be used for specific purposes for a specified period as described in subparagraph (B), such allowances or the proceeds of their sale may be used for any of the following purposes:

(i) LOANS- Loans of allowances, or the proceeds from the sale of allowances, may be provided, interest on commercial loans may be subsidized at an interest rate as low as zero, and other credit support may be provided to support programs authorized to use SEED Account allowance value or any other renewable energy or energy efficiency purpose authorized or approved by the Federal Government.

(ii) GRANTS- Grants of allowances or the proceeds of their sale may be provided to support programs authorized to use SEED Account allowance value or any other renewable energy or energy

efficiency purpose authorized or approved by the Federal Government.

(iii) OTHER FORMS OF SUPPORT- Allowances or the proceeds of the sale of allowances may be provided for other forms of support for programs authorized to use SEED Account allowance value or any other renewable energy or energy efficiency purpose authorized or approved by the Federal Government.

(iv) ADMINISTRATIVE COSTS- Except to the extent provided in Federal law authorizing or allocating allowances deposited in a SEED Account, not more than 5 percent of the allowance value in a SEED Account in any year may be used to cover administrative expenses of the SEED Account.

(D) SUBACCOUNTS- A State may request that the Administrator establish accounts for local governments that request such subaccounts to hold allowances distributed to local governments for renewable energy or energy efficiency programs authorized or approved by the Federal Government.

(E) INTENDED USE PLANS-

(i) IN GENERAL- After providing for public review and comment, each State administering a SEED Account shall annually prepare a plan that identifies the intended uses of the allowances or proceeds from the sale of allowances in its SEED Account.

(ii) CONTENTS- An intended use plan shall include--

(I) a list of the projects or programs for which withdrawals from the SEED Account are intended in the next fiscal year that begins after the date of the plan, including a description of each project;

(II) the relationship of each of the projects or programs to an identified Federal purpose authorized by this Act, or any other Federal statute;

(III) the expected terms of use of allowance value to provide assistance;

(IV) the criteria and methods established for the distribution of allowances or allowance value;

(V) a description of the equivalent financial value and status of the SEED Account; and

(VI) a statement of the mid-term and long-term goals of the State for use of its SEED Account.

(3) ACCOUNTABILITY AND TRANSPARENCY-

(A) CONTROLS AND PROCEDURES- Any State that has a SEED Account shall establish fiscal controls and recordkeeping and accounting procedures for the SEED Account sufficient to ensure proper accounting during appropriate accounting periods for distributions into the SEED Account, transfers from the SEED Account, and SEED Account balances, including any related financial accounts. Such controls and procedures shall conform to generally accepted government accounting principles. Any State that has a SEED Account shall retain records for a period of at least 5 years.

(B) AUDITS- Any State that has a SEED Account shall have an annual audit conducted of the SEED Account by an independent public accountant in accordance with generally accepted auditing standards, and shall transmit the results of that audit to the Administrator.

(C) STATE REPORT- Each State administering a SEED Account shall make publicly available and submit to the Administrator a report every 2 years on its activities related to its SEED Account.

(D) PUBLIC INFORMATION- Any--

(i) controls and procedures established under subparagraph (A); and

(ii) information obtained through audits conducted under subparagraph (B), except to the extent that it would be protected from disclosure, if it were information held by the Federal Government, under section 552(b) of title 5, United States Code,

shall be made publicly available.

(E) OTHER PROTECTIONS- The Administrator shall require such additional procedures and protections as are necessary to ensure that any State that has a SEED Account will operate the SEED Account in an accountable and transparent manner.

(f) Requirements for Eligibility- A State's eligibility to receive allowances in its SEED Account shall depend on that State's compliance with the requirements of this Act (and the amendments made by this Act).

(g) Authorization of Appropriations- There are authorized to be appropriated to the Administrator such sums as may be necessary for SEED Account operations.

SEC. 132. SUPPORT OF STATE RENEWABLE ENERGY AND ENERGY EFFICIENCY PROGRAMS.

(a) Definitions- For purposes of this section:

(1) ALLOWANCE- The term `allowance' means an emission allowance established under section 721 of the Clean Air Act (as added by section 311 of this Act).

(2) COST-EFFECTIVE- The term `cost-effective', with respect to an energy efficiency program, means that the program meets the Total Resource Cost Test, which requires that the net present value of economic benefits over the life of the program or measure, including avoided supply and delivery costs and deferred or avoided investments, is greater than the net present value of the economic costs over the life of the program, including program costs and incremental costs borne by the energy consumer.

(3) 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).

(4) VINTAGE YEAR- The term `vintage year' shall the meaning given that term in section 700 of the Clean Air Act (as added by section 311 of this Act).

(b) Distribution Among States- Not later than September 30 of each calendar year from 2011 through 2049, the Administrator shall, in accordance with this section, distribute allowances allocated pursuant to section 782(g)(1) of the Clean Air Act (as added by section 311 of this Act) for the following vintage year. The Administrator shall distribute 0.5 percent of such allowances pursuant to section 133 of this Act. The Administrator shall distribute the remaining allowances to States for renewable energy and energy efficiency programs to be deposited in and administered through the State Energy and Environment Development (SEED) Accounts established pursuant to section 131. The Administrator shall distribute allowances among the States under this section each year in accordance with the following formula:

(1) One third of the allowances shall be divided equally among the States.

(2) One third of the allowances shall be distributed ratably among the States based on the population of each State, as contained in the most recent reliable census data available from the Bureau of the Census, Department of Commerce, for all States at the time the Administrator calculates the formula for distribution.

(3) One third of the allowances for shall be distributed ratably among the States on the basis of the energy consumption of each State as contained in the most recent State Energy Data Report available from the Energy Information Administration (or such alternative reliable source as the Administrator may designate).

(c) Uses- The allowances distributed to each State pursuant to this section shall be used exclusively in accordance with the following requirements:

(1) Not less than 12.5 percent shall be distributed by the State to units of local government within such State to be used exclusively to support the energy efficiency and renewable energy purposes listed in paragraphs (2) and (3).

(2) Not less than 20 percent shall be used exclusively for the following energy efficiency purposes, provided that not less than 1 percent shall be used for the purpose described in subparagraph (D) and not less than 5.5 percent shall be used for the purpose described in subparagraph (E):

(A) Implementation and enforcement of building codes adopted in compliance with section 201.

(B) Implementation of the energy efficient manufactured homes program established pursuant to section 203.

(C) Implementation of the building energy performance labeling program established pursuant to section 204.

(D) Low-income community energy efficiency programs that are consistent with the grant program established under section 264 of this Act.

(E) Implementation of the Retrofit for Energy and Environmental Performance (REEP) program established pursuant to section 202.

(3) Not less than 20 percent shall be used exclusively for capital grants, tax credits, production incentives, loans, loan guarantees, forgivable loans, direct provision of allowances, and interest rate buy-downs for--

(A) re-equipping, expanding, or establishing a manufacturing facility that receives certification from the Secretary of Energy pursuant to section 1302 of the American Recovery and Reinvestment Act of 2009 for the production of--

(i) property designed to be used to produce energy from renewable energy sources; and

(ii) electricity storage systems;

(B) deployment of technologies to generate electricity from renewable energy sources; and

(C) deployment of facilities or equipment, such as solar panels, to generate electricity or thermal energy from renewable energy resources in and on buildings in an urban environment.

(4) The remaining 47.5 percent shall be used exclusively for any of the following purposes:

(A) Energy efficiency purposes described in paragraph (2).

(B) Renewable energy purposes described in paragraph (3)(B) and (C).

(C) Cost-effective energy efficiency programs for end-use consumers of electricity, natural gas, home heating oil, or propane, including, where appropriate, programs or mechanisms administered by local governments and entities other than the State.

(D) Enabling the development of a Smart Grid (as described in section 1301 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17381)) for State, local government, and other public buildings and facilities, including integration of renewable energy resources and

distributed generation, demand response, demand side management, and systems analysis.

(E) Providing the non-Federal share of support for surface transportation capital projects under--

(i) sections 5307, 5308, 5309, 5310, 5311 and 5319 of title 49, United States Code; and

(ii) sections 142, 146, and 149 of title 23, United States Code,

provided that not more than 10 percent of allowances distributed to each State pursuant to this section shall be used for such purpose.

(5) For any allowances used for the purpose described in paragraph (4)(C), the State shall--

(A) prioritize expansion of existing energy efficiency programs approved and overseen by the State or the appropriate State regulatory authority; and

(B) demonstrate that such allowances have been used to supplement, and not to supplant, existing and otherwise available State, local, and ratepayer funding for such purpose.

(d) Reporting- Each State receiving allowances under this section shall include in its biennial reports required under section 131, in accordance with such requirements as the Administrator may prescribe--

(1) a list of entities receiving allowances or allowance value under this section, including entities receiving such allowances or allowance value from units of local government pursuant to subsection (c)(1);

(2) the amount and nature of allowances or allowance value received by each such recipient;

(3) the specific purposes for which such allowances or allowance value was conveyed to each such recipient;

(4) documentation of the amount of energy savings, emission reductions, renewable energy deployment, and new or retooled manufacturing capacity resulting from the use of such allowances or allowance value; and

(5) for any energy efficiency program supported under subsection (c)(4)(C)--

(A) an assessment demonstrating the cost-effectiveness of such program; and

(B) a demonstration that the requirements set forth in subsection (c)(5) have been satisfied.

(e) Enforcement- If the Administrator determines that a State is not in compliance with this section, the Administrator may withhold up to twice the number of allowances that the State failed to use in accordance with the requirements of this

section, that such State would otherwise be eligible to receive under this section in later years. Allowances withheld pursuant to this subsection shall be distributed among the remaining States in accordance with the requirements of subsection (b).

SEC. 133. SUPPORT OF INDIAN RENEWABLE ENERGY AND ENERGY EFFICIENCY PROGRAMS.

(a) Definitions- For purposes of this section:

(1) ALLOWANCE; COST-EFFECTIVE; RENEWABLE ENERGY RESOURCE- The terms `allowance', `cost-effective', and `renewable energy resource' have the meaning given those terms in section 132 of this Act.

(2) INDIAN TRIBE- The term `Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

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

(b) Establishment- Not later than 18 months after the date of enactment of this Act, the Secretary shall, in consultation with the Administrator and the Secretary of the Interior, promulgate regulations establishing a program to distribute allowances to Indian tribes on a competitive basis for the following purposes:

(1) ENERGY EFFICIENCY- Cost-effective energy efficiency programs for end-use consumers of electricity, natural gas, home heating oil, or propane.

(2) RENEWABLE ENERGY- Deployment of technologies to generate electricity from renewable energy resources.

(c) Requirements- The regulations promulgated pursuant to subsection (b) shall prescribe design elements and requirements of the program established under this section, including--

(1) objective criteria for evaluating proposals submitted by Indian tribes, and for selecting projects and programs to receive support, under this section;

(2) reporting requirements for Indian tribes that receive allowances under this section; and

(3) other appropriate elements and requirements.

(d) Distribution- The Administrator shall, at the direction of the Secretary, distribute to Indian tribes allowances that are set aside, pursuant to section 132, for use under this section.

Subtitle E--Smart Grid Advancement

SEC. 141. DEFINITIONS.

For purposes of this subtitle:

(1) The term `applicable baseline' means the average of the highest three annual peak demands a load-serving entity has experienced during the 5 years immediately prior to the date of enactment of this Act.

(2) The term `Commission' means Federal Energy Regulatory Commission.

(3) The term `load-serving entity' means an entity that provides electricity directly to retail consumers with the responsibility to assure power quality and reliability, including such entities that are investor-owned, publicly owned, owned by rural electric cooperatives, or other entities.

(4) The term `peak demand' means the highest point of electricity demand, net of any distributed electricity generation or storage from sources on the load-serving entity's customers' premises, during any hour on the system of a load serving entity during a calendar year, expressed in Megawatts (MW), or more than one such high point as a function of seasonal demand changes.

(5) The term `peak demand reduction' means the reduction in annual peak demand as compared to a previous baseline year or period, expressed in Megawatts (MW), whether accomplished by--

(A) diminishing the end-use requirements for electricity;

(B) use of locally stored energy or generated electricity to meet those requirements from distributed resources on the load-serving entity's customers' premises and without use of high-voltage transmission; or

(C) energy savings from efficient operation of the distribution grid resulting from the use of a Smart Grid.

(6) The term `peak demand reduction plan' means a plan developed by or for a load-serving entity that it will implement to meet its peak demand reduction goals.

(7) The term `peak period' means the time period on the system of a load-serving entity relative to peak demand that may warrant special measures or electricity resources to maintain system reliability while meeting peak demand.

(8) The term `Secretary' means the Secretary of Energy.

(9) The term `Smart Grid' has the meaning provided by section 1301 of the Energy Independence and Security Act of 2007 (15 U.S.C. 17381).

SEC. 142. ASSESSMENT OF SMART GRID COST EFFECTIVENESS IN PRODUCTS.

(a) Assessment- Within 1 year after the date of enactment of this Act, the Secretary and the Administrator shall each assess the potential for cost-effective integration of Smart Grid technologies and capabilities in all products that are reviewed by the Department of Energy and the Environmental Protection Agency, respectively, for potential designation as Energy Star products.

(b) Analysis- (1) Within 2 years after the date of enactment of this Act, the Secretary and the Administrator shall each prepare an analysis of the potential energy savings, greenhouse gas emission reductions, and electricity cost savings that could accrue for each of the products identified by the assessment in subsection (a) in the following optimal circumstances:

(A) The products possessed Smart Grid capability and interoperability that is tested and proven reliable.

(B) The products were utilized in an electricity utility service area which had Smart Grid capability and offered customers rate or program incentives to use the products.

(C) The utility's rates reflected national average costs, including average peak and valley seasonal and daily electricity costs.

(D) Consumers using such products took full advantage of such capability.

(E) The utility avoided incremental investments and rate increases related to such savings.

(2) The analysis under paragraph (1) shall be considered the `best case' Smart Grid analysis. On the basis of such an analysis for each product, the Secretary and the Administrator shall determine whether the installation of Smart Grid capability for such a product would be cost effective. For purposes of this paragraph, the term `cost effective' means that the cumulative savings from using the product under the best case Smart Grid circumstances for a period of one-half of the product's expected useful life will be greater than the incremental cost of the Smart Grid features included in the product.

(3) To the extent that including Smart Grid capability in any products analyzed under paragraph (2) is found to be cost effective in the best case, the Secretary and the Administrator shall, not later than 3 years after the date of enactment of this Act take each of the following actions:

(A) Inform the manufacturer of such product of such finding of cost effectiveness.

(B) Assess the potential contributions the development and use of products with Smart Grid technologies bring to reducing peak demand and promoting grid stability.

(C) Assess the potential national energy savings and electricity cost savings that could be realized if Smart Grid potential were installed in the relevant products reviewed by the Energy Star program.

(D) Assess and identify options for providing consumers information on products with Smart Grid capabilities, including the necessary conditions for cost-effective savings.

(E) Submit a report to Congress summarizing the results of the assessment for each class of products, and presenting the potential energy and greenhouse gas savings that could result if Smart Grid capability were installed and utilized on such products.

SEC. 143. INCLUSIONS OF SMART GRID CAPABILITY ON APPLIANCE ENERGY GUIDE LABELS.

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:

^ (J)(i) Not later than 1 year after the date of enactment of this subparagraph, the Federal Trade Commission shall initiate a rulemaking to consider making a special note in a prominent manner on any ENERGY GUIDE label for any product actually including Smart Grid capability that--

^ (I) Smart Grid capability is a feature of that product;

^ (II) the use and value of that feature depended on the Smart Grid capability of the utility system in which the product was installed and the active utilization of that feature by the customer; and

^ (III) on a utility system with Smart Grid capability, the use of the product's Smart Grid capability could reduce the customer's cost of the product's annual operation by an estimated dollar amount range representing the result of incremental energy and electricity cost savings that would result from the customer taking full advantage of such Smart Grid capability.

^ (ii) Not later than 3 years after the date of enactment of this subparagraph, the Commission shall complete the rulemaking initiated under clause (i).'

SEC. 144. SMART GRID PEAK DEMAND REDUCTION GOALS.

(a) Goals- Not later than 1 year after the date of enactment of this section, each load-serving entity, or, at the option of the State, each State with respect to load-serving entities that the State regulates, shall determine and publish peak demand reduction goals for any load-serving entities that have an applicable baseline in excess of 250 megawatts.

(b) Baselines- (1) The Commission, in consultation with the Secretary and the Administrator, shall develop and publish, after an opportunity for public comment, but not later than 180 days after enactment of this section, a methodology to provide for adjustments or normalization to a load-serving entity's applicable baseline over time to reflect changes in the number of customers served, weather conditions, general economic conditions, and any other appropriate factors external to peak demand management, as determined by the Commission.

(2) The Commission shall support load-serving entities (including any load-serving entities with an applicable baseline of less than 250 megawatts that volunteer to participate in achieving the purposes of this section) in determining their applicable baselines, and in developing their peak demand reduction goals.

(3) The Secretary, in consultation with the Commission, the Administrator, and the North American Electric Reliability Corporation, shall develop a system and rules for measurement and verification of demand reductions.

(c) Peak Demand Reduction Goals- (1) Peak demand reduction goals may be established for an individual load-serving entity, or, at the determination of a State, tribal, or regional entity, by that State, tribal, or regional entity for a larger region that shares a common system peak demand and for which peak demand reduction measures would offer regional benefit.

(2) A State or regional entity establishing peak demand reduction goals shall cooperate, as necessary and appropriate, with the Commission, the Secretary, State regulatory commissions, State energy offices, the North American Electric Reliability Corporation, and other relevant authorities.

(3) In determining the applicable peak demand reduction goals--

(A) States and other jurisdictional entities may utilize the results of the 2009 National Demand Response Potential Assessment, as authorized by section 571 of the National Energy Conservation Policy Act (42 U.S.C. 8279); and

(B) the relative economics of peak demand reduction and generation required to meet peak demand shall be evaluated in a neutral and objective manner.

(4) The applicable peak demand reduction goals shall provide that--

(A) load-serving entities will reduce or mitigate peak demand by a minimum percentage amount from the applicable baseline to a lower peak demand during calendar year 2012;

(B) load-serving entities will reduce or mitigate peak demand by a minimum percentage greater amount from the applicable baseline to a lower peak demand during calendar year 2015; and

(C) the minimum percentage reductions established as peak demand reduction goals shall be the maximum reductions that are realistically achievable with an aggressive effort to deploy Smart Grid and peak demand reduction technologies and methods, including but not limited to those listed in subsection (d).

(d) Plan- Each load-serving entity shall prepare a peak demand reduction plan that demonstrates its ability to meet each applicable goal by any or a combination of the following options:

(1) Direct reduction in megawatts of peak demand through--

(A) energy efficiency measures (including efficient transmission wire technologies which significantly reduce line loss compared to traditional wire technology) with reliable and continued application during peak demand periods; or

(B) use of a Smart Grid.

(2) Demonstration that an amount of megawatts equal to a stated portion of the applicable goal is contractually committed to be available for peak reduction through one or more of the following:

(A) Megawatts enrolled in demand response programs.

(B) Megawatts subject to the ability of a load-serving entity to call on demand response programs, smart appliances, smart electricity or energy storage devices, distributed generation resources on the entity's customers' premises, or other measures directly capable of actively, controllably, reliably, and dynamically reducing peak demand ('dynamic peak management control').

(C) Megawatts available from distributed dynamic electricity or energy storage under agreement with the owner of that storage.

(D) Megawatts committed from dispatchable distributed generation demonstrated to be reliable under peak period conditions and in compliance with air quality regulations.

(E) Megawatts available from smart appliances and equipment with Smart Grid capability available for direct control by the utility through agreement with the customer owning the appliances or equipment or with a third party pursuant to such agreements.

(F) Megawatts from a demonstrated and assured minimum of distributed solar electric generation capacity in instances where peak period and peak demand conditions are directly related to solar radiation and accompanying heat.

(3) If any of the methods listed in subparagraph (C), (D), or (E) of paragraph (2) are relied upon to meet its peak demand reduction goals, the load-serving entity must demonstrate this capability by operating a test during the applicable calendar year.

(4) Nothing in this section shall require the publication in peak demand reduction goals or in any peak demand reduction plan of any information that is confidential for competitive or other reasons or that identifies individual customers.

(e) Existing Authority and Requirements- Nothing in this section diminishes or supersedes any authority of a State or political subdivision of a State to adopt or enforce any law or regulation respecting peak demand management, demand response, distributed energy storage, use of distributed generation, or the regulation of load-serving entities. The Commission, in consultation with States and Indian tribes having such peak management, demand response and distributed energy storage programs, shall to the maximum extent practicable, facilitate coordination between the Federal program and such State and tribal programs.

(f) Relief- The Commission may, for good cause, grant relief to load-serving entities from the requirements of this section.

(g) Other Laws- Except as provided in subsections (e) and (f), no law or regulation shall relieve any person of any requirement otherwise applicable under this section.

(h) Compliance- (1) The Commission shall within 1 year after the date of enactment of this Act establish a public website where the Commission will provide information and data demonstrating compliance by States, Indian tribes regional entities, and load-serving entities with this section, including the success of load-serving entities in meeting applicable peak demand reduction goals.

(2) The Commission shall, by April 1 of each year beginning in 2012, provide a report to Congress on compliance with this section and success in meeting applicable peak demand reduction goals and, as appropriate, shall make recommendations as to how to increase peak demand reduction efforts.

(3) The Commission shall note in each such report any State, political subdivision of a State, or load-serving entity that has failed to comply with this section, or is not a part of any region or group of load-serving entities serving a region that has complied with this section.

(4) The Commission shall have and exercise the authority to take reasonable steps to modify the process of establishing peak demand reduction goals and to accept adjustments to them as appropriate when sought by load-serving entities.

(i) Assistance and Funding-

(1) ASSISTANCE TO STATES AND TRIBES- Any costs incurred by States for activities undertaken pursuant to this section shall be supported by the use of emission allowances allocated to the States' SEED Accounts or to the tribes 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.

(2) FUNDING- There are authorized to be appropriated such sums as may be necessary to the Commission, the Secretary, and the Administrator to carry out the provisions of this section.

SEC. 145. REAUTHORIZATION OF ENERGY EFFICIENCY PUBLIC INFORMATION PROGRAM TO INCLUDE SMART GRID INFORMATION.

(a) In General- Section 134 of the Energy Policy Act of 2005 (42 U.S.C. 15832) is amended as follows:

(1) By amending the section heading to read as follows: `energy efficiency and smart grid public information initiative'.

(2) In paragraph (1) of subsection (a) by striking `reduce energy consumption during the 4-year period beginning on the date of enactment of this Act' and inserting `increase energy efficiency and to adopt Smart Grid technology and practices'.

(3) In paragraph (2) of subsection (a) by striking `benefits to consumers of reducing' and inserting `economic and environmental benefits to consumers and the United States of optimizing'.

(4) In subsection (a) by inserting at the beginning of paragraph (3) `the effect of energy efficiency and Smart Grid capability in reducing energy and electricity prices throughout the economy, together with'.

(5) In subsection (a)(4) by redesignating subparagraph (D) as (E), by striking `and' at the end of subparagraph (C), and by inserting after subparagraph (C) the following:

 ` (D) purchasing and utilizing equipment that includes Smart Grid features and capability; and'.

(6) In subsection (c), by striking `Not later than July 1, 2009,' and inserting, `For each year when appropriations pursuant to the authorization in this section exceed \$10,000,000,'.

(7) In subsection (d) by striking `2010' and inserting `2020'.

(8) In subsection (e) by striking `2010' and inserting `2020'.

(b) Table of Contents- The item relating to section 134 in the table of contents for the Energy Policy Act of 2005 (42 U.S.C. 15801 and following) is amended to read as follows:

 ` Sec. 134. Energy efficiency and Smart Grid public information initiative.'.

SEC. 146. INCLUSION OF SMART GRID FEATURES IN APPLIANCE REBATE PROGRAM.

(a) Amendments- Section 124 of the Energy Policy Act of 2005 (42 U.S.C. 15821) is amended as follows:

(1) By amending the section heading to read as follows: `energy efficient and smart appliance rebate program.'.

(2) By redesignating paragraphs (4) and (5) of subsection (a) as paragraphs (5) and (6), respectively, and inserting after paragraph (3) the following:

 ` (4) SMART APPLIANCE- The term `smart appliance' means a product that the Administrator of the Environmental Protection Agency or the Secretary of Energy has determined qualifies for such a designation in the Energy Star program pursuant to section 142 of the American Clean Energy and Security Act of 2009, or that the Secretary or the Administrator has separately determined includes the relevant Smart Grid capabilities listed in section 1301 of the Energy Independence and Security Act of 2007 (15 U.S.C. 17381).'.

(3) In subsection (b)(1) by inserting `and smart' after `efficient' and by inserting after `products' the first place it appears ` , including products designated as being smart appliances'.

(4) In subsection (b)(3), by inserting `the administration of' after `carry out'.

(5) In subsection (d), by inserting `the administration of' after `carrying out' and by inserting ` , and up to 100 percent of the value of the rebates provided pursuant to this section' before the period at the end.

(6) In subsection (e)(3), by inserting ` , with separate consideration as applicable if the product is also a smart appliance,' after `Energy Star product' the first place it appears and by inserting `or smart appliance' before the period at the end.

(7) In subsection (f), by striking `\$50,000,000' through the period at the end and inserting `\$100,000,000 for each fiscal year from 2010 through 2015.'

(b) Table of Contents- The item relating to section 124 in the table of contents for the Energy Policy Act of 2005 (42 U.S.C. 15801 and following) is amended to read as follows:

` Sec. 124. Energy efficient and smart appliance rebate program.'

Subtitle F--Transmission Planning

SEC. 151. TRANSMISSION PLANNING AND SITING.

(a) In General- Section 216 of the Federal Power Act (16 U.S.C. 824p) is amended as follows:

(1) In subsection (b), in paragraph (5), by striking ` ; and' and inserting a semicolon, in paragraph (6) by striking the period and inserting ` ; and' and by adding the following at the end thereof:

` (7) the facility is interstate in nature or is an intrastate segment integral to a proposed interstate facility;'

(2) In subsection (k), by inserting at the end the following: ` Subsections (a), (b), (c), and (h) of this section shall not apply in the Western interconnection.'

(3) In subsections (d) and (e), by striking ` subsection (b)' in each place and inserting ` subsection (b) or section 216B', and by striking ` permit' and inserting ` permit or certificate' in each place it appears.

(b) New Sections- The Federal Power Act (16 U.S.C. 824p) is amended by inserting the following new sections after section 216:

` SEC. 216A. TRANSMISSION PLANNING.

` (a) Federal Policy for Transmission Planning-

` (1) OBJECTIVES- It is the policy of the United States that regional electric grid planning should facilitate the deployment of renewable and other zero-carbon and low-carbon energy sources for generating electricity to reduce greenhouse gas emissions while ensuring reliability, reducing congestion, ensuring cyber-security, minimizing environmental harm, and providing for cost-effective electricity services throughout the United States, in addition to serving the objectives stated in section 217(b)(4).

` (2) OPTIONS- In addition to the policy under paragraph (1), it is the policy of the United States that regional electric grid planning to meet these

objectives should result from an open, inclusive and transparent process, taking into account all significant demand-side and supply-side options, including energy efficiency, distributed generation, renewable energy and zero-carbon electricity generation technologies, smart-grid technologies and practices, demand response, electricity storage, voltage regulation technologies, high capacity conductors with at least 25 percent greater efficiency than traditional ACSR (aluminum stranded conductors steel reinforced) conductors, superconductor technologies, underground transmission technologies, and new conventional electric transmission capacity and corridors.

˘ (b) Planning-

˘ (1) PLANNING PRINCIPLES- Not later than 1 year after the date of enactment of this section, the Commission shall adopt, after notice and opportunity for comment, national electricity grid planning principles derived from the Federal policy established under subsection (a) to be applied in ongoing and future transmission planning that may implicate interstate transmission of electricity.

˘ (2) REGIONAL PLANNING ENTITIES- Not later than 3 months after the date of adoption by the Commission of national electricity grid planning principles pursuant to paragraph (1), entities that conduct or may conduct transmission planning pursuant to State, tribal, or Federal law or regulation, including States, Indian tribes, entities designated by States and Indian tribes, Federal Power Marketing Administrations, transmission providers, operators and owners, regional organizations, and electric utilities, and that are willing to incorporate the national electricity grid planning principles adopted by the Commission in their electric grid planning, shall identify themselves and the regions for which they propose to develop plans to the Commission.

˘ (3) COORDINATION OF REGIONAL PLANNING ENTITIES- The Commission shall encourage regional planning entities described under paragraph (2) to cooperate and coordinate across regions and to harmonize regional electric grid planning with planning in adjacent or overlapping jurisdictions to the maximum extent feasible. The Commission shall work with States, Indian tribes, Federal land management agencies, State energy, environment, natural resources, and land management agencies and commissions, Federal power marketing administrations, electric utilities, transmission providers, load-serving entities, transmission operators, regional transmission organizations, independent system operators, and other organizations to resolve any conflict or competition among proposed planning entities in order to build consensus and promote the Federal policy established under subsection (a). The Commission shall seek to ensure that planning that is consistent with the national electricity grid planning principles adopted pursuant to paragraph (1) is conducted in all regions of the United States and the territories, but in a manner that, to the extent feasible, avoids uncoordinated planning by more than one planning entity for the same area.

˘ (4) RELATION TO EXISTING PLANNING POLICY- In implementing the Federal policy established under subsection (a), the Commission shall--

^ (A) incorporate and coordinate with any ongoing planning efforts undertaken pursuant to section 217 and Commission Order No. 890;

^ (B) coordinate with the Secretary of Energy in providing to the regional planning entities an annual summary of national energy policy priorities and goals;

^ (C) coordinate with corridor designation and planning functions carried out pursuant to section 216 by the Secretary of Energy, who shall provide financial support from available funds to support the purposes of this section; and

^ (D) coordinate with the Secretaries of the Interior and Agriculture and Indian tribes in carrying out the Secretaries' or tribal governments' existing responsibilities for the planning or siting of transmission facilities on Federal or tribal lands, consistent with law, policy, and regulations relating to the management of federal public lands.

^ (5) ASSISTANCE-

^ (A) IN GENERAL- The Commission shall provide support to and may participate if invited to do so in the regional grid planning processes conducted by regional planning entities. The Secretary of Energy and the Commission may provide planning resources and assistance as required or as requested by regional planning entities, including system data, cost information, system analysis, technical expertise, modeling support, dispute resolution services, and other assistance to regional planning entities, as appropriate.

^ (B) AUTHORIZATION- There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.

^ (6) CONFLICT RESOLUTION- In the event that regional grid plans conflict, the Commission shall assist the regional planning entities in resolving such conflicts in order to achieve the objectives of the Federal policy established under subsection (a).

^ (7) SUBMISSION OF PLANS- The Commission shall require regional planning entities to submit initial regional electric grid plans to the Commission not later than 18 months after the date the Commission promulgates national electricity grid planning principles pursuant to paragraph (1), with updates to such plans not less than every 3 years thereafter. The Commission shall review such plans for consistency with the national grid planning principles and may return a plan to one or more planning entities for further consideration, along with the Commission's own recommendations for resolution of any conflict or for improvement.

^ (8) INTEGRATION OF PLANS- Regional electric grid plans should, in general, be developed from sub-regional requirements and plans, including planning input reflecting individual utility service areas. Regional plans may then in turn be combined into larger regional plans, up to interconnection-wide and national plans, as appropriate and necessary as determined by the Commission. In no case shall a multi-regional plan impose inclusion of a

facility on a region that has submitted a valid plan that, after efforts to resolve the conflict, does not include such facility. To the extent practicable, all plans submitted to the Commission shall be public documents and available on the Commission's Web site.

^ (9) MULTI-REGIONAL MEETINGS- As regional grid plans are submitted to the Commission, the Commission may convene multi-regional meetings to discuss regional grid plan consistency and integration, including requirements for multi-regional projects, and to resolve any conflicts that emerge from such multi-regional projects. The Commission shall provide its recommendations for eliminating any inter-regional conflicts.

^ (10) REPORT TO CONGRESS- Not later than 3 years after the date of enactment of this section and each 3 years thereafter, the Commission shall provide a report to Congress containing the results of the regional grid planning process, including summaries of the adopted regional plans and the extent to which the Federal policy objectives in subsection (a) have been successfully achieved. The Commission shall provide an electronic version of its report on its website with links to all regional and sub-regional plans taken into account. The Commission shall note and provide its recommended resolution for any conflicts not resolved during the planning process. The Commission shall make any recommendations to Congress on the appropriate Federal role or support required to address the needs of the electric grid, including recommendations for addressing any needs that are beyond the reach of existing State, tribal, and Federal authority.

^ SEC. 216B. SITING AND CONSTRUCTION IN THE WESTERN INTERCONNECTION.

^ (a) Applicability- This section applies only to States located in the Western Interconnection and does not apply to States located in the Eastern Interconnection, to the States of Alaska or Hawaii, or to ERCOT.

^ (b) Certificate of Public Convenience and Necessity- The Commission may, after notice and opportunity for hearing, issue a certificate of public convenience and necessity for the construction or modification of a transmission facility if the Commission finds that--

^ (1) the facility was identified and included in one or more relevant and final regional or interconnection-wide electric grid plans submitted to the Commission pursuant to subsection (b) of 216A;

^ (2) any conflict among regional electric grid plans concerning the need for the facility was resolved;

^ (3) such relevant regional electric grid plans are consistent with the national grid planning principles adopted by the Commission pursuant to subsection (b);

^ (4) the facility was identified as needed in significant measure to meet demand for renewable energy in such plans;

^ (5) the facility is a multistate facility;

^ (6) the developer of such facility filed a complete application seeking approval for the siting of the facility with a state commission or other entity that has authority to approve the siting of the facility;

^ (7) a State commission or other entity that has authority to approve the siting of the facility--

^ (A) did not issue a decision on an application seeking approval for the siting of the facility within 1 year after the date the applicant submitted a completed application to the State;

^ (B) denied a complete application seeking approval for the siting of the facility; or

^ (C) authorized the siting of the facility subject to conditions that unreasonably interfere with the development of the facility; and

^ (8) the siting of the facility can be accomplished in a manner consistent with the Federal policy established in subsection (a) of section 216A and the national grid planning principles adopted by the Commission pursuant to subsection (b) of section 216A.

^ (c) State Recommendations on Resource Protection- In issuing a final certificate of public convenience and necessity pursuant to subsection (b), the Commission shall-

^ (1) consider any siting constraints and mitigation measures based on habitat protection, health and safety considerations, environmental considerations, or cultural site protection identified by relevant State or local authorities; and

^ (2) incorporate those identified siting constraints or mitigation measures, including recommendations related to project routing, as conditions in the final certificate of public convenience and necessity, or if the Commission determines that a recommended siting constraint or mitigation measure is infeasible, excessively costly, or inconsistent with the Federal policy established in subsection (a) of section 216A or the national grid planning principles adopted by the Commission pursuant to subsection (b) of section 216A--

^ (A) consult with State regulatory agencies to seek to resolve the issue;

^ (B) incorporate as conditions on the certificate such recommended siting constraints or mitigation measures as are determined to be appropriate by the Commission, based on consultation by the Commission with State regulatory agencies, the Federal policy established in subsection (a) of section 216A and the national grid planning principles adopted by the Commission pursuant to subsection (b) of section 216A, and the record before the Commission; and

^ (C) if, after consultation, the Commission does not adopt in whole or in part a recommendation of an agency, publish a finding that the adoption of the recommendation is infeasible, not cost effective, or inconsistent with this section or other applicable provisions of law.

- ˘ (d) Certificate Applications- (1) An application for a preliminary or final certificate of public convenience and necessity under this subsection shall be made in writing to the Commission.
- ˘ (2) The Commission shall issue rules specifying--
 - ˘ (A) the form of the application;
 - ˘ (B) the information to be contained in the application; and
 - ˘ (C) the manner of service of notice of the application on interested persons.
- ˘ (e) Coordination of Federal Authorizations for Transmission Facilities-
 - ˘ (1) In this subsection, the term `Federal authorization' shall have the same meaning and include the same actions as in section 216(h).
 - ˘ (2) The Federal Energy Regulatory Commission shall act as the lead agency for purposes of coordinating all applicable Federal authorizations and related environmental reviews of the facility, provided, however, that to the extent the facility is proposed to be sited on Federal lands, the Department of the Interior will assume such lead-agency duties as agreed between the Commission and the Department of Interior.
 - ˘ (3) To the maximum extent practicable under applicable Federal law, the Commission, and to the extent agreed, the Secretary of Interior, shall coordinate the Federal authorization and review process under this subsection with any Indian tribes, multistate entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the facility, to ensure timely and efficient review and permit decisions.
 - ˘ (4)(A) As head of the lead agency, the Chairman of the Commission, in consultation with the Secretary of Interior and with those entities referred to in paragraph (3) that are willing to coordinate their own separate permitting and environment