111TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
111–185

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 2454) TO CREATE CLEAN ENERGY JOBS, ACHIEVE ENERGY INDEPENDENCE, REDUCE GLOBAL WARMING POLLUTION AND TRANSITION TO A CLEAN ENERGY ECONOMY

JUNE 26, 2009 (legislative day of June 25), 2009.—Referred to the House Calendar and ordered to be printed

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Ms. MATSUI, from the Committee on Rules, submitted the following

R E P O R T

[To accompany 587]

The Committee on Rules, having had under consideration House Resolution 587, by a record vote of 7 to 3, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 2454, the "American Clean Energy and Security Act of 2009," under a structured rule. The resolution provides three hours of debate with 2 and one half hours to be equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce and 30 minutes to be equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means. The resolution waives all points of order against consideration of the bill except for clauses 9 and 10 of rule XXI.

The resolution provides that, in lieu of the amendment recommended by the Committee on Energy and Commerce now printed in the bill, an amendment in the nature of a substitute consisting of the text of H.R. 2998, modified by the amendment printed in part A of this report, shall be considered as adopted. The resolution waives all points of order against the bill, as amended. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure). The resolution provides that the bill, as amended, shall be considered as read.

The resolution makes in order the further amendment in the nature of a substitute printed in part B of the report of the Committee on Rules, if offered by Representative Forbes of Virginia or his designee, which shall be in order without intervention of any point of order except those arising under clause 9 or 10 of rule XXI,

shall be considered as read, and shall be separately debatable for 30 minutes equally divided and controlled by the proponent and an opponent. The resolution provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

Although the rule waives all points of order against consideration of the bill (except for clauses 9 and 10 of rule XXI) and all points of order against the bill, as amended, the Committee is not aware of any points of order. The waivers of all points of order are prophylactic.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 157

Date: June 26, 2009 (legislative day of June 25, 2009).
Measure: H.R. 2454.
Motion by: Mr. Dreier.
Summary of motion: To make in order and provide appropriate waivers for an amendment in the nature of a substitute by Rep. Boehner (OH), #40, which would strike all after the enacting clause and insert the text of H.R. 2846, the "American Energy Act," as introduced in the 111th Congress.
Results: Defeated 3–7.
Vote by Members: McGovern—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 158

Date: June 26, 2009 (legislative day of June 25, 2009).
Measure: H.R. 2454.
Motion By: Mr. Dreier.
Summary of motion: To make in order en bloc the following amendments by Rep. Barton (TX) to be separately debatable for 10 minutes each: #212, which would strike the cap and trade title; allows for the construction of new coal and natural gas plants with certain regulatory standards, #213, which would direct the Administrator, in consultation with the Secretary of Energy, to annually prepare and certify a report to Congress on the average retail price of gasoline in the United States. If the Administrator determines that the average retail price of gasoline (all grades) sold to retail customers in the United States during the prior year exceeds $5 per gallon, including taxes (in 2009 dollars), as a result of implementation of this Act, the provisions of this Act shall cease to be effective, #214, which include nuclear energy as a qualifying RES source, and #215, which would include carbon-based fuel with carbon sequestration or conversion as a qualifying RES source.
Results: Defeated 3–7.
Vote by Member: McGovern—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 159

Date: June 26, 2009 (legislative day of June 25, 2009).
Measure: H.R. 2454.
Motion By: Mr. Dreier.
Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Kucinich (OH), #165, which would reduce emission allowances by a third each year.
Results: Defeated 3–7.
Vote by Member: McGovern—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 160

Date: June 26, 2009 (legislative day of June 25, 2009).
Measure: H.R. 2454.
Motion by: Mr. Dreier.
Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. DeFazio (OR), Rep. Kucinich (OH), and Rep. Stark (CA), #174, which would strike the EPA's authority to list a greenhouse gas as an air pollutant under section 108 of the Clean Air Act.
Results: Defeated 3–7.
Vote by Members: McGovern—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 161

Date: June 26, 2009 (legislative day of June 25, 2009).
Measure: H.R. 2454.
Motion by: Mr. Dreier.
Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Maffei (NY), #139, which would provide that hydropower, other than that defined in the bill as qualified hydropower, shall receive a credit worth 50% towards the renewable electricity standard.
Results: Defeated 3–7.
Vote by Members: McGovern—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 162

Date: June 26, 2009 (legislative day of June 25, 2009).
Measure: H.R. 2454.
Motion by: Mr. Dreier.
Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Richardson (CA), #70, which would establish a competitive grant program to fund clean and energy-efficient transportation vehicles and technology at seaports.
Results: Defeated 3–7.
Vote by Members: McGovern—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 163

Date: June 26, 2009 (legislative day of June 25, 2009).

Measure: H.R. 2454.
Motion by: Mr. Diaz-Balart.
Summary of motion: To make in order en bloc the following amendments by Rep. Goodlatte (VA) to be separately debatable for 10 minutes each: #157, which would allow the President to suspend the Global Warming Pollution Reduction program in the event of any national emergency or national disaster; Rep. Goodlatte (VA), #158, which would allow a governor of any State or an electricity provider in any State to petition the Commission to waive, in whole or in part, the renewable electric standard if a State does not have the renewable energy resources to meet the mandate; and Rep. Goodlatte (VA), #177, which would state that the administrator may only approve higher ethanol blends, higher than 10%, in gasoline if the administrator can certify that higher ethanol additives will not contribute to failure of emission control devices in 80% of vehicles inventory.
Results: Defeated 3–7.
Vote by Members: McGovern—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 164

Date: June 26, 2009 (legislative day of June 25, 2009).
Measure: H.R. 2454.
Motion by: Mr. Diaz-Balart.
Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Kline, John (MN), #20, which would expand eligibility under the Green Jobs Act to provide that jobseekers and job-training partners are not excluded for not being union affiliated.
Results: Defeated 3–7.
Vote by Members: McGovern—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 165

Date: June 26, 2009 (legislative day of June 25, 2009).
Measure: H.R. 2454.
Motion by: Mr. Sessions.
Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Fallin (OK), #181, which would exclude all businesses with fewer than 100 employees from the restrictions in H.R. 2454.
Results: Defeated 3–7.
Vote by Members: McGovern—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 166

Date: June 26, 2009 (legislative day of June 25, 2009).
Measure: H.R. 2454.
Motion by: Mr. Sessions.
Summary of motion: To make in order and provide appropriate waivers for an amendment by Reps. Camp (MI)/Herger (CA)/Johnson, Sam (TX)/Brady, Kevin (TX)/Linder (GA)/Tiberi (OH)/Brown-

Waite (FL)/Davis, Geoff (KY)/Boustany (LA)/Roskam (IL), #37, which would delay the implementation of the Safe Climate Act portion of the bill until the Comptroller General of the United States determines that the bill would not result in a net increase in costs for American families with household income less than $200,000 for single filers or $250,000 for joint filers. The Comptroller General must make a determination within 3 months of enactment

Results: Defeated 3–7.

Vote by Members: McGovern—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 167

Date: June 26, 2009 (legislative day of June 25, 2009).

Measure: H.R. 2454.

Motion by: Mr. Sessions.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Biggert (IL), #217, which would strike national building codes and national labels for buildings. It also would insert the text of H.R. 2336, the "Green Act of 2009," and H.R. 2246, the "Community Building Code Administration Grant Act," into the bill.

Results: Defeated 3–7.

Vote by Members: McGovern—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 168

Date: June 26, 2009 (legislative day of June 25, 2009).

Measure: H.R. 2454.

Motion by: Mr. Sessions.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Roe (TN), #106, which would require the United States to reach agreement on greenhouse gas reductions with China and India before implementing the legislation.

Results: Defeated 3–7.

Vote by Members: McGovern—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 169

Date: June 26, 2009 (legislative day of June 25, 2009).

Measure: H.R. 2454.

Motion by: Mr. Sessions.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Souder (IN), #203, which would exclude small farmers with $100,000 in annual sales from any regulation or standard in the bill.

Results: Defeated 3–7.

Vote by Members: McGovern—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 170

Date: June 26, 2009 (legislative day of June 25, 2009).
Measure: H.R. 2454.
Motion by: Mr. Sessions.
Summary of motion: To make in order and provide appropriate waivers for an amendment in the nature of a substitute by Rep. Bishop, Rob (UT)/Price, Tom (GA), #18, which would strike all after the enacting clause and insert provisions regarding tax exempt financing for qualified renewable energy facilities, repeal of federal purchasing requirements, renewable technologies, innovation in technology, national grid efficiency, regulatory burdens, judicial review regarding energy projects, carbon capture and clean coal technology, natural gas, conservation, production, and job creation.
Results: Defeated 3–7.
Vote by Members: McGovern—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 171

Date: June 26, 2009 (legislative day of June 25, 2009).
Measure: H.R. 2454.
Motion by: Mr. McGovern.
Summary of motion: To report the rule.
Results: Adopted 7–3.
Vote by Members: McGovern—Yea; Cardoza—Yea; Arcuri—Yea; Perlmutter—Yea; Pingree—Yea; Polis—Yea; Dreier—Nay; Diaz-Balart—Nay; Sessions—Nay; Slaughter—Yea.

SUMMARY OF AMENDMENT IN PART A TO BE CONSIDERED AS ADOPTED

1. Waxman (CA): The amendment would make changes to accommodate States that utilize a central purchasing model for its renewable electricity standard, and makes additional changes. It would provide FERC with siting authority for the construction of certain high-priority interstate transmission lines constructed in the Western Interconnection. It also would amend the National Interest Electric Transmission Corridors.

It would require the Agriculture Secretary to establish a list of types of domestic agricultural and forestry practices that result in reductions or avoidance of greenhouse gas emissions. It exempts the agriculture and forestry sectors from the bill's emission caps. It redefines "biomass." It grandfathers existing biodiesel plants to exempt them from lifecycle analysis under the RFS. It would permit states to convey allowances in a SEED account directly to renewable energy generators. It would require the Agriculture Secretary to establish a carbon incentives program to achieve supplemental greenhouse gas emissions reductions on private agricultural and forestland.

It would establish a Renewable Electricity Standard (RES) for Federal agencies. It also would provide Federal agencies with the authority to enter into renewable energy power purchase agreements for up to 20 years. It would make natural gas fueled vehicles eligible for clean vehicle incentives, the vehicle integration program, and the manufacturing incentives for alternatively fueled vehicles. It would limit the cost of a permit for a license for the con-

struction of a solar energy system. It would provide that noncompliance with permit cost requirements disqualifies the entity from Community Development Block Grants.

It would authorize 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. It would amend the definition of a "cluster," as it applies to Energy Innovation Hubs. It would ensure that virtual connections qualify when defining a cluster.

It would amend the Retrofit for Energy and Environmental Performance (REEP) program to provide that funds provided to disaster victims through the Robert T. Stafford Disaster Relief and Emergency Assistance Act may qualify as the building owners' contribution toward the matching requirements of the REEP program. It requires the Federal agencies administering assistance to disaster victims through the Robert T. Stafford Disaster Relief and Emergency Assistance Act shall provide information to disaster victims on the REEP program. It would provide 10 percent of funding under the REEP program for retrofits of public and assisted housing.

It would create a Community Building Code Administration Grant program, providing $100 million over five years in competitive, matching grants for local building code enforcement. It would limit the Building Energy Performance Labeling Program in sec. 204 of the bill to new construction only. It would provide incentives to lenders and financial institutions to provide lower interest loans and other benefits to consumers who build, buy, or remodel homes and businesses to improve their energy efficiency. It would direct HUD to issue rules to prohibit private covenants that restrict or prohibit the installation of solar energy systems.

It would authorize the Energy Secretary to develop a research program to study the factors affecting whether consumers adopt energy conservation practices or make energy efficiency improvements. It would require the Energy Secretary to report to Congress on a study on the use of thorium-fueled nuclear reactors for national energy needs, including a response to the IAEA study entitled "Thorium fuel cycle—Potential benefits and challenges."

It would establish a clean energy career training clearinghouse to aid institutions with Federal resources, expertise, information and points of contact in establishing and maintaining quality training programs. It would add a provision seeking to ensure that minority- owned and women-owned businesses can benefit from grants aimed at stimulating business development. It would require the Labor Secretary to monitor the potential growth of impacted and displaced workers to ensure that the necessary funding continues to support the number of workers affected. It would express the sense of Congress that the United States should work with the International Civil Aviation Organization.

SUMMARY OF THE AMENDMENT IN THE NATURE OF A SUBSTITUTE IN PART B TO BE MADE IN ORDER

1. Forbes (VA): Would strike everything and insert the text of H.R. 513, the "New Manhattan Project for Energy Independence." (30 minutes)

PART A—TEXT OF THE AMENDMENT TO BE CONSIDERED AS ADOPTED

Page 14, strike lines 1 through 3 and insert:

"(7) CENTRAL PROCUREMENT STATE.—The term 'central procurement State' means a State that, as of January 1, 2009, had adopted and implemented a legally enforceable mandate that, in lieu of requiring utilities to submit credits or certificates issued based on generation of electricity from (or to purchase or generate electricity from) resources defined by the State as renewable, requires retail electric suppliers to collect payments from electricity ratepayers within the State that are used for central procurement, by a State agency or a public benefit corporation established pursuant to State law, of credits or certificates issued based on generation of electricity from resources defined by the State as renewable.

Page 15, beginning line 8, strike paragraph (11), relating to the definition of high conservation priority land.

Page 16, line 5, strike "1992" and insert "1988".

Page 16, line 13, strike "1992" and insert "1988".

Page 19, beginning line 13, strike paragraph (16), relating to the definition of renewable biomass, and insert the following new paragraph:

"(16) RENEWABLE BIOMASS.—The term 'renewable biomass' means any of the following:

"(A) Materials, pre-commercial thinnings, or removed invasive species from National Forest System land and public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)), including those that are byproducts of preventive treatments (such as trees, wood, brush, thinnings, chips, and slash), that are removed as part of a federally recognized timber sale, or that are removed to reduce hazardous fuels, to reduce or contain disease or insect infestation, or to restore ecosystem health, and that are—

"(i) not from components of the National Wilderness Preservation System, Wilderness Study Areas, Inventoried Roadless Areas, old growth stands, late-successional stands (except for dead, severely damaged, or badly infested trees), components of the National Landscape Conservation System, National Monuments, National Conservation Areas, Designated Primitive Areas, or Wild and Scenic Rivers corridors;

"(ii) harvested in environmentally sustainable quantities, as determined by the appropriate Federal land manager; and

"(iii) harvested in accordance with Federal and State law, and applicable land management plans.

"(B) Any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including—

"(i) renewable plant material, including—

"(I) feed grains;

"(II) other agricultural commodities;

"(III) other plants and trees; and

"(IV) algae; and

"(ii) waste material, including—

"(I) crop residue;

"(II) other vegetative waste material (including wood waste and wood residues);

"(III) animal waste and byproducts (including fats, oils, greases, and manure);

"(IV) construction waste; and

"(V) food waste and yard waste.

"(C) Residues and byproducts from wood, pulp, or paper products facilities.".

Page 26, line 22, strike "(g)" and insert "(h)".

Page 31, line 6, strike "Where" and insert "(A) Except as provided in subparagraph (B), where"

Page 32, after line 4, insert:

"(B) In the case of a central procurement State that pursuant to subsection (g) has assumed responsibility for compliance with the requirements of subsection (b), the Commission shall issue directly to the State Federal renewable electricity credits for any renewable electricity for which the State, pursuant to a mandate described in subsection (a)(7), has centrally procured credits or certificates issued based on generation of such renewable electricity.

Page 32, line 6, strike "When" and insert "Except as otherwise provided in paragraph (2), when".

Page 43, line 10, after "supplier" insert ", or a central procurement State that, pursuant to subsection (g), has assumed responsibility for compliance with the requirements of subsection (b),".

Page 43, line 21, before the comma insert "and paragraph (4)".

Page 44, line 5 strike "(4)" and insert "(5) and with paragraph (4) where applicable".

Page 44, line 7, strike "(4)" and insert "(5), or with paragraph (4), where applicable".

Page 44, after line 20, insert the following new paragraph and redesignate the succeeding paragraph accordingly:

"(4) CENTRAL PROCUREMENT STATES.—

"(A) IN GENERAL.—A central procurement State that, pursuant to subsection (g), has assumed responsibility for compliance with the requirements of subsection (b) shall deposit any alternative compliance payments under this subsection in a unique fund in the State treasury created and used solely for this purpose.

"(B) REQUIREMENTS.—As a precondition of making alternative compliance payments under this subsection, a cen-

tral procurement State shall certify to the Commission, in accordance with such requirements as the Commission may prescribe, that—

"(i) making such payments is the lowest cost alternative to meet the requirements of subsection (b); and

"(ii) moneys used by the State to make such payments are in addition to any spending that the State, and any separate entity charged with administering the State central procurement requirement identified under subsection (a)(7), otherwise collectively would direct to the purposes identified in paragraph (3).

"(C) USES.—A central procurement State that makes alternative compliance payments under this subsection shall certify to the Commission that, in using such payments in accordance with paragraph (3), it has, to the extent practicable, maximized the level of deployment of renewable electricity generation (measured in megawatt hours) and electricity savings per dollar that are achieved through such expenditures.

Page 45, line 5 before the period insert "and demonstrating compliance with the requirements of this subsection".

Page 45, after line 5, insert the following new subsection and redesignate the succeeding subsections accordingly:

"(g) CENTRAL PROCUREMENT STATES.—

"(1) IN GENERAL.—A central procurement State may, upon submission of a written request by the Governor of such State to the Commission, assume responsibility for compliance with the requirements of subsection (b) on behalf of retail electric suppliers located in such State, exclusively with regard to the portion of such retail electric suppliers' base amount that is sold within the State.

"(2) DEMONSTRATION OF ELECTRICITY SAVINGS.—If a central procurement State opts to meet any part of the requirements of subsection (b) based on the achievement of demonstrated total annual electricity savings, regardless of whether such State has received delegated authority pursuant to subsection (f)(5), such State shall submit such demonstrated total annual electricity savings to the Commission through an annual report in accordance with requirements prescribed by the Commission by regulation, which shall be of equivalent stringency to those applicable to retail electric suppliers under subsection (f).

"(3) NONCOMPLIANCE.—If a central procurement State that pursuant to this subsection has assumed responsibility for compliance with the requirements of subsection (b), fails to satisfy the requirements of subsection (b) or (h) for any year, the State's assumption of responsibility under this subsection shall be discontinued immediately, and retail electric suppliers located in such State henceforth shall be directly subject to the requirements of this section.

Page 45, line 16, after "person" insert ", other than any central procurement State that pursuant to subsection (g) has assumed responsibility for compliance with the requirements of subsection (b),".

Page 45, line 17, and page 46, line 3, strike "(g)" and insert "(h)".

Page 45, line 21, strike "(g)(1)" and insert "(h)(1)".

Page 46, line 9, after "person" insert ", other than any central procurement State that pursuant to subsection (g) has assumed responsibility for compliance with the requirements of subsection (b),".

Page 46, line 20, strike "(i)" and insert "(j)".

Page 49, after line 4, insert the following new section and make the necessary conforming changes in the table of contents:

SEC. 103. FEDERAL RENEWABLE ENERGY PURCHASES.

(a) REQUIREMENT.—For each of calendar years 2012 through 2039, the President shall ensure that, of the total amount of electricity Federal agencies consume in the United States during each calendar year, the following percentage shall be renewable electricity:

Calendar year	Required annual percentage
2012	6.0
2013	6.0
2014	9.5
2015	9.5
2016	13.0
2017	13.0
2018	16.5
2019	16.5
2020	20.0
2021 through 2039	20.0

(b) DEFINITIONS.—For purposes of this section:

(1) RENEWABLE ELECTRICITY.—The term "renewable electricity" shall have the meaning given in section 610 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 and following).

(2) RENEWABLE ENERGY RESOURCE.—The term "renewable energy resource" shall have the meaning given in section 610 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 and following).

(c) MODIFICATION OF REQUIREMENT.—If the President determines that the Federal Government cannot feasibly meet the requirement established in subsection (a) in a specific calendar year, the President may, by written order, reduce such requirement for such calendar year to a percentage the President determines the Federal Government can feasibly meet.

(d) REPORTS.—Not later than April 1, 2013, and each year thereafter, the Secretary of Energy shall provide a report to Congress on the percentage of each Federal agency's electricity consumption in the United States that was renewable electricity in the previous calendar year.

(e) CONTRACTS FOR RENEWABLE ENERGY.—(1) Notwithstanding section 501(b)(1)(B) of title 40, United States Code, a contract for the acquisition of electricity generated from a renewable energy re-

source for the Federal Government may be made for a period of not more than 20 years.

(2) Not later than 90 days after the date of enactment of this subsection, the Secretary of Energy, through the Federal Energy Management Program, shall publish a standardized renewable energy purchase agreement, setting forth commercial terms and conditions, that Federal agencies may use to acquire electricity generated from a renewable energy resource.

(3) The Secretary of Energy shall provide technical assistance to assist Federal agencies in implementing this subsection.

Page 96, line 8, insert "The limitation in the preceding sentence shall not apply to projects that meet the eligibility criteria in subsection (b)(1)(A)(iv)(I)." after "generating capacity.".

Page 110, strike lines 8 through 15 and insert "subsection (a) for the reconstruction or retooling of facilities for the manufacture of plug-in electric drive vehicles or batteries for such vehicles that are developed and produced in the United States.".

Page 116, beginning line 1, strike section 126 and insert the following new section:

SEC. 126. DEFINITION OF RENEWABLE BIOMASS.

Section 211(o)(1)(I) of the Clean Air Act (42 U.S.C. 7545(o)(1)(I)) is amended to read as follows:

"(I) RENEWABLE BIOMASS.—The term 'renewable biomass' means any of the following:

"(i) Materials, pre-commercial thinnings, or removed invasive species from National Forest System land and public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)), including those that are byproducts of preventive treatments (such as trees, wood, brush, thinnings, chips, and slash), that are removed as part of a federally recognized timber sale, or that are removed to reduce hazardous fuels, to reduce or contain disease or insect infestation, or to restore ecosystem health, and that are—

"(I) not from components of the National Wilderness Preservation System, Wilderness Study Areas, Inventoried Roadless Areas, old growth stands, late-successional stands (except for dead, severely damaged, or badly infested trees), components of the National Landscape Conservation System, National Monuments, National Conservation Areas, Designated Primitive Areas, or Wild and Scenic Rivers corridors;

"(II) harvested in environmentally sustainable quantities, as determined by the appropriate Federal land manager; and

"(III) harvested in accordance with Federal and State law, and applicable land management plans.

"(ii) Any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian tribe that is held in trust by the United States or subject to a re-

striction against alienation imposed by the United States, including—

"(I) renewable plant material, including—

"(aa) feed grains;

"(bb) other agricultural commodities;

"(cc) other plants and trees; and

"(dd) algae; and

"(II) waste material, including—

"(aa) crop residue;

"(bb) other vegetative waste material (including wood waste and wood residues);

"(cc) animal waste and byproducts (including fats, oils, greases, and manure);

"(dd) construction waste;

"(ee) food waste and yard waste; and

"(ff) the non-fossil biogenic portion of municipal solid waste and construction, demolition, and disaster debris.

"(iii) Residues and byproducts from wood, pulp, or paper products facilities.".

Page 120, after line 16, insert the following new subsection:

(c) REDUCTION.—The last sentence of section 211(o)(7)(D) of the Clean Air Act (42 U.S.C. 7545(o)(7)(D)) is amended to read as follows: "For any calendar year in which the Administrator makes such a reduction, the Administrator shall also reduce the applicable volume of renewable fuel and advanced biofuels requirement established under paragraph (2)(B) by the same volume.".

Page 128, line 4, strike "; and" and insert a semicolon.

Page 128, line 17, strike the period at the end and insert "; and".

Page 128, after line 17, insert the following new paragraph:

(4) in section 797, by striking "2011" and inserting "2016".

Page 129, after line 9, insert the following new sections and make the necessary conforming changes in the table of contents:

SEC. 130. FLEET VEHICLES.

Section 508 of the Energy Policy Act of 1992 (42 U.S.C. 13258) is amended as follows:

(1) By adding the following new paragraph at the end of subsection (a):

"(6) REPOWERED OR CONVERTED ALTERNATIVE FUELED VEHICLES.—As used in this paragraph, the term 'repowered or converted alternative fueled vehicle' includes light-, medium- or heavy-duty motor vehicles that have been modified with an EPA or CARB compliant engine or vehicle or aftermarket system so that the vehicle or engine is capable of operating on an alternative fuel.".

(2) By adding the following new paragraph at the end of subsection (b):

"(3) Repowered or converted vehicles. Not later than January 1, 2010, the Secretary shall allocate credits to fleets that repower or convert an existing vehicle so that it is capable of operating on an alternative fuel. In the case of any medium- or heavy-duty vehicle that is repowered or converted so that it is capable of operating on an alternative fuel, the Secretary

shall allocate additional credits for such vehicles if he determines that such vehicles displace more petroleum than light duty alternative fueled vehicles. Such rules shall also include a requirement that such vehicles remain in the fleet for a period of no less than 2 years in order to continue to qualify for credit. The Secretary also shall extend the flexibility afforded in this paragraph to Federal fleets subject to the purchase provisions contained in section 303 of this Act.".

SEC. 130A. REPORT ON NATURAL GAS VEHICLE EMISSIONS REDUCTIONS.

Within 360 days after the date of enactment of this Act, the Administrator, in consultation with the Secretaries of Energy and Transportation, and the Administrator of the General Services Administration, and after an examination of available scientific studies or analysis, shall submit to the Congress a report on—

(1) the contribution that light and heavy duty natural gas vehicles, by category and State, have made during the last decade to the reduction of greenhouse gases and criteria pollutants under the Clean Air Act, and the reduced consumption of petroleum-based fuels;

(2) the contribution that light and heavy duty natural gas vehicles are expected to make from 2010 to 2020 in reducing greenhouse gas and criteria pollutants under the Clean Air Act based, among other things, on additional Federal incentives for the manufacture and deployment of natural gas vehicles provided in this Act, and other Federal legislation; and

(3) additional Federal measures, including legislation, that could, if implemented, maximize the potential for natural gas used in both stationary and mobile sources to contribute to the reduction of greenhouse gases and criteria pollutants under the Clean Air Act.

Page 140, line 17, strike "5 percent" and insert "5.5 percent".

Page 141, line 13, insert "direct provision of allowances," after "forgivable loans,".

Page 164, strike line 10 and all that follows down through line 19 on page 170, insert the following and make the necessary conforming changes in the table of contents:

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 en-

ergy, 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 sub-

section (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 environmental reviews with the Federal authorization and environmental reviews, shall establish prompt and binding intermediate milestones and ultimate deadlines for the review of, and Federal authorization decisions relating to, the proposed facility.

"(B) The Chairman of the Commission, or the Secretary of Interior, as agreed under paragraph (2), shall ensure that, once an application has been submitted with such data as the lead agency considers necessary, all permit decisions and related environmental reviews under all applicable Federal laws shall be completed—

"(i) within 1 year; or

"(ii) if a requirement of another provision of Federal law does not permit compliance with clause (i), as soon thereafter as is practicable.

"(C) The Commission shall provide an expeditious pre-application mechanism for prospective applicants to confer with the agencies involved to have each such agency determine and communicate to the prospective applicant not later than 60 days after the prospective applicant submits a request for such information concerning—

"(i) the likelihood of approval for a potential facility; and

"(ii) key issues of concern to the agencies and public.

"(5)(A) As lead agency head, the Chairman of the Commission, in consultation with the affected agencies, shall prepare a single environmental review document, which shall be used as the basis for all decisions on the proposed project under Federal law.

"(B) The Chairman of the Commission and the heads of other agencies shall streamline the review and permitting of transmission within corridors designated under section 503 of the Federal Land Policy and Management Act (43 U.S.C. 1763) by fully taking into account prior analyses and decisions relating to the corridors.

"(C) The document shall include consideration by the relevant agencies of any applicable criteria or other matters as required under applicable law.

"(6)(A) If any agency has denied a Federal authorization required for a transmission facility, or has failed to act by the deadline established by the Commission pursuant to this section for deciding whether to issue the authorization, the applicant or any State in which the facility would be located may file an appeal with the President, who shall, in consultation with the affected agency, review the denial or failure to take action on the pending application.

"(B) Based on the overall record and in consultation with the affected agency, the President may—

"(i) issue the necessary authorization with any appropriate conditions; or

"(ii) deny the application.

"(C) The President shall issue a decision not later than 90 days after the date of the filing of the appeal.

"(D) In making a decision under this paragraph, the President shall comply with applicable requirements of Federal law, including any requirements of—

"(i) the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.);

"(ii) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(iii) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

"(iv) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(v) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

"(7)(A) Not later than 18 months after August 8, 2005, the Commission or, as requested, the Secretary or Interior, shall issue any regulations necessary to implement this subsection.

"(B)(i) Not later than 1 year after August 8, 2005, the Commission, the Secretary of Interior, and the heads of all Federal

agencies with authority to issue Federal authorizations shall enter into a memorandum of understanding to ensure the timely and coordinated review and permitting of electricity transmission facilities.

"(ii) Interested Indian tribes, multistate entities, and State agencies may enter the memorandum of understanding.

"(C) The head of each Federal agency with authority to issue a Federal authorization shall designate a senior official responsible for, and dedicate sufficient other staff and resources to ensure, full implementation of the regulations and memorandum required under this paragraph.

"(8)(A) Each Federal land use authorization for an electricity transmission facility shall be issued—

"(i) for a duration, as determined by the Secretary of Interior, commensurate with the anticipated use of the facility; and

"(ii) with appropriate authority to manage the right-of-way for reliability and environmental protection.

"(B) On the expiration of the authorization (including an authorization issued before August 8, 2005), the authorization shall be reviewed for renewal taking fully into account reliance on such electricity infrastructure, recognizing the importance of the authorization for public health, safety, and economic welfare and as a legitimate use of Federal land.

"(9) In exercising the responsibilities under this section, the Commission shall consult regularly with—

"(A) electric reliability organizations (including related regional entities) approved by the Commission; and

"(B) Transmission Organizations approved by the Commission.".

Page 218, line 12, strike "concentration of firms" and insert "network of entities".

Page 243, after line 2, insert the following new section:

SEC. 175. HIGH EFFICIENCY GAS TURBINE RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

(a) IN GENERAL.—The Secretary of Energy shall carry out a multiyear, multiphase program of research, development, and technology demonstration to improve the efficiency of gas turbines used in combined cycle power generation systems and to identify the technologies that ultimately will lead to gas turbine combined cycle efficiency of 65 percent.

(b) PROGRAM ELEMENTS.—The program under this section shall—

(1) support first-of-a-kind engineering and detailed gas turbine design for utility-scale electric power generation, including—

(A) high temperature materials, including superalloys, coatings, and ceramics;

(B) improved heat transfer capability;

(C) manufacturing technology required to construct complex three-dimensional geometry parts with improved aerodynamic capability;

(D) combustion technology to produce higher firing temperature while lowering nitrogen oxide and carbon monoxide emissions per unit of output;

(E) advanced controls and systems integration;

(F) advanced high performance compressor technology; and

(G) validation facilities for the testing of components and subsystems;

(2) include technology demonstration through component testing, subscale testing, and full scale testing in existing fleets;

(3) include field demonstrations of the developed technology elements so as to demonstrate technical and economic feasibility; and

(4) assess overall combined cycle system performance.

(c) PROGRAM GOALS.—The goals of the multiphase program established under subsection (a) shall be—

(1) in phase I—

(A) to develop the conceptual design of advanced high efficiency gas turbines that can achieve at least 62 percent combined cycle efficiency on a lower heating value basis; and

(B) to develop and demonstrate the technology required for advanced high efficiency gas turbines that can achieve at least 62 percent combined cycle efficiency on a lower heating value basis; and

(2) in phase II, to develop the conceptual design for advanced high efficiency gas turbines that can achieve at least 65 percent combined cycle efficiency on a lower heating value basis.

(d) PROPOSALS.—Within 180 days after the date of enactment of this section, the Secretary shall solicit proposals for conducting activities under this section. In selecting proposals, the Secretary shall emphasize—

(1) the extent to which the proposal will stimulate the creation or increased retention of jobs in the United States; and

(2) the extent to which the proposal will promote and enhance United States technology leadership.

(e) COST SHARING.—Section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) shall apply to an award of financial assistance made under this section.

(f) LIMITS ON PARTICIPATION.—The limits on participation applicable under section 999E of the Energy Policy Act of 2005 (42 U.S.C. 16375) shall apply to financial assistance awarded under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $65,000,000 for each of fiscal years 2011 through 2014.

Page 256, line 2, strike "and".

Page 256, after line 2, insert the following new paragraph:

(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

Page 256, line 3, redesignate paragraph (11) as paragraph (12).

Page 285, lines 13 through 15, amend paragraph (4) to read as follows:

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

Page 288, line 15, insert ", including minority-owned and woman-owned," after "to entrepreneurs".

Page 296, after line 6, insert the following new sections:

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).

Page 329, line 4, insert "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." after "Federal assistance.".

Page 344, after line 10, insert the following new subparagraph:

(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.

Page 344, lines 11 and 18, redesignate subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively.

Page 335, line 19, strike "and".

Page 335, line 25, strike the period and insert "; and".

Page 335, after line 25, add the following new paragraph:

(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 not 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.

Page 345, lines 7 through 11, strike "The Administrator," and all that follows through "other residential buildings.".

Page 367, after line 7, insert the following new subsection:

(m) NEW CONSTRUCTION.—This section shall apply only to construction beginning after the date of enactment of this Act.

Page 382, after line 10, insert the following new sections:

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.

Page 387, line 8, strike "2011" and insert "2016".

Page 387, line 15, strike "2013" and insert "2018".

Page 387, line 21, through page 388, line 4, strike paragraph (3).

Page 388, lines 5 and 13, redesignate paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

Page 388, line 7, strike "2011" and insert "2016".

Page 388, line 12, insert "Outdoor luminaires used for roadway lighting applications shall be exempt the 2 light level requirement." after "luminaire under test.".

Page 388, line 13, strike "2017" and insert "2022".

Page 388, lines 15 and 16, strike "paragraphs (3) and (4)" and insert "paragraph (3)".

Page 389, line 1, strike "(3)" and insert "(2)".

Page 389, line 7, strike "2020" and insert "2025".

Page 389, line 12, strike "2012" and insert "2017".

Page 455, line 19, through page 459, line 13, amend section 217 to read as follows:

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.

Page 465, line 22, insert ", including cost effectiveness from the consumer's perspective, and relative length of time for consumers to recover costs attributable to the energy efficient features," after "relative energy efficiency".

Page 496, before line 13, insert the following new sections:

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.

"(E) Biomass equipment.

"(F) Geothermal equipment.

"(G) Advanced biofuels.

"(H) Ocean energy equipment.

"(I) Carbon capture and storage.

"(J) Such other products as the Secretary determines—

"(i) relate to the production, use, transmission, storage, control, or conservation of energy;

"(ii) reduce greenhouse gas concentrations;

"(iii) achieve the earliest and maximum emission reductions within a reasonable period per dollar invested;

"(iv) result in the fewest non-greenhouse gas environmental impacts; and

"(v) either—

"(I) reduce the need for additional energy supplies by—

"(aa) using existing energy supplies with greater efficiency; or

"(bb) by transmitting, distributing, or transporting energy with greater effectiveness through the infrastructure of the United States; or

"(II) diversity the sources of energy supply of the United States—

"(aa) to strengthen energy security; and

"(bb) to increase supplies with a favorable balance of environmental effects if the entire technology system is considered.

"(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—

"(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

"(B) is a component, system, or group of subsystems that is designed, developed, and validated to optimize the energy efficiency of a product.

"(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 F.R. 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. 278*l*)—

(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.".

Page 504, after line 8, insert the following new section:

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.

Page 521, after line 3, insert the following:

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 conserva-

tion 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 are as 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 edi-

tions 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 hous-

ing 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 fi-

nancial 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.

Page 566, line 22, insert "offset" before "credit".

Page 567, line 8, strike "allowances or offset credits" and insert "allowances, offset credits, or term offset credits".

Page 567, line 11, strike "allowances or offset credits" and insert "allowances, offset credits, or term offset credits".

Page 577, line 16, insert "offset" before "credits".

Page 578, line 3, insert "offset" before "credits".

Page 586, after line 13, insert the following new paragraph:

"(2) TERM OFFSET CREDITS.—

"(A) IN GENERAL.—Covered entities may, in accordance with this paragraph, use non-expired term offset credits instead of domestic offset credits for purposes of temporarily demonstrating compliance with this section.

"(B) AMOUNT.—The combined quantity of term offset credits and domestic offset credits used by a covered entity to demonstrate compliance for its emissions or attributable greenhouse gas emissions in any given year shall not exceed the quantity of domestic offset credits that a covered entity is entitled to use for that year to demonstrate compliance in accordance with paragraph (1).

"(C) EXPIRATION.—A term offset credit shall expire in the year after its term ends. The term of a term offset credit shall be calculated by adding to the year of issuance the number of years equal to the length of the crediting period for the practice or project for which the term offset credit was issued, but in no case shall be later than the date 5 years from the date of issuance.

"(D) DEMONSTRATING COMPLIANCE UPON EXPIRATION OF TERM OFFSET CREDIT.—With respect to the emissions for which a covered entity is using term offset credits to demonstrate compliance temporarily with this section, the owner or operator of a covered entity shall not be considered to be in compliance with the prohibition in subsection (a) unless, as of 12:01 a.m. on April 1 (or a later date established by the Administrator under subsection (j)) of the calendar year in which a term offset credit expires, the owner or operator holds—

"(i) for purposes of finally demonstrating compliance, an allowance or a domestic offset credit; or

"(ii) for purposes of temporarily demonstrating compliance, a non-expired term offset credit.

Domestic offset credits used for purposes of finally demonstrating compliance under this subparagraph shall not be subject to the percentage limitations in subparagraph (B).

"(E) FINANCIAL ASSURANCE.—A covered entity may not use a term offset credit to demonstrate compliance temporarily unless it simultaneously provides to the Administrator financial assurance that, at the end of the term offset credit's crediting term, the covered entity will have sufficient resources to obtain the quantity of allowances or credits necessary to demonstrate final compliance. The Administrator shall issue regulations establishing requirements for such financial assurance, which shall take into account the increased risk associated with longer crediting terms. These regulations shall take into account the total number of tons of carbon dioxide equivalent of greenhouse gas emissions for which a covered entity is demonstrating compliance temporarily, and may set a limit on this amount. In the event that a covered entity that used term offset credits to demonstrate compliance temporarily fails to meet the requirements of subparagraph (D) at the end

of the term offset credits' crediting term, if the financial assurance mechanism fails to provide to the Administrator the number of allowances or offset credits for which the crediting term has expired, then the Administrator shall retire that number of allowances with the vintage year 2 years after the year in which the term offset credit expires in the same amount. Allowances so retired shall not be counted as emission allowances established for that calendar year under section 721(a).

Page 586, lines 14 and 19, redesignate paragraphs (2) and (3) as paragraphs (3) and (4), respectively.

Page 590, line 12, insert "In the event that a covered entity fails to demonstrates compliance at the expiration of a term offset credit's crediting term as required by section 722(d)(2)(D), the year of the violation shall be the year in which the term offset credit expires." after "a separate violation.".

Page 590, line 16, insert ", (d)(2)," after "section 722(a)".

Page 591, line 25, insert ", (d)(2)," after "section 722(a)".

Page 593, line 2, strike "allowance or offset credit" and insert "allowance, offset credit, or term offset credit".

Page 593, lines 10 and 11, strike "allowances and offset credits" and insert "allowances, offset credits, and term offset credits".

Page 594, lines 2 through 4, strike "allowance or offset credit established or issued by the Administrator under this title," and insert "allowance, offset credit, or term offset credit, established or issued under the American Clean Energy and Security Act of 2009 or the amendments made thereby,".

Page 594, line 7, strike "allowances or offset credits" and insert "allowances, offset credits, or term offset credits".

Page 594, lines 9 through 11, strike "allowance or offset credit established or issued by the Administrator under this title" and insert "allowance, offset credit, or term offset credit, established or issued under the American Clean Energy and Security Act of 2009 or the amendments made thereby,".

Page 609, line 8, insert "by promulgating new regulations" after "subsection (i)".

Page 690, lines 18 and 19, strike "allowances or offset credits" and insert "allowances, offset credits, or term offset credits".

Page 691, lines 9 through 12, amend paragraph (17) to read as follows:

"(17) DOMESTIC OFFSET CREDIT.—For purposes of part D, the term 'domestic offset credit' means an offset credit issued under part D, other than an international offset credit. For purposes of part C, the term means any offset credit issued under the American Clean Energy and Security Act of 2009, or the amendments made thereby. The term does not include a term offset credit.

Page 693, beginning line 13, strike paragraph (29), relating to the definition of high conservation priority land.

Page 693, line 24, strike "allowance or offset credit" and insert "allowance, offset credit, or term offset credit".

Page 696, lines 1 and 2, amend paragraph (38) to read as follows:

"(38) OFFSET CREDIT.—For purposes of this section and part D, the term 'offset credit' means an offset credit issued under part D. For purposes of part C, the term means any offset credit issued under the American Clean Energy and Security Act of 2009, or the amendments made thereby. The term does not include a term offset credit.

Page 696, beginning line 15, strike paragraph (42), relating to the definition of renewable biomass, and insert the following new paragraph:

"(42) RENEWABLE BIOMASS.—The term 'renewable biomass' means any of the following:

"(A) Materials, pre-commercial thinnings, or removed invasive species from National Forest System land and public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)), including those that are byproducts of preventive treatments (such as trees, wood, brush, thinnings, chips, and slash), that are removed as part of a federally recognized timber sale, or that are removed to reduce hazardous fuels, to reduce or contain disease or insect infestation, or to restore ecosystem health, and that are—

"(i) not from components of the National Wilderness Preservation System, Wilderness Study Areas, Inventoried Roadless Areas, old growth stands, late-successional stands (except for dead, severely damaged, or badly infested trees), components of the National Landscape Conservation System, National Monuments, National Conservation Areas, Designated Primitive Areas, or Wild and Scenic Rivers corridors;

"(ii) harvested in environmentally sustainable quantities, as determined by the appropriate Federal land manager; and

"(iii) harvested in accordance with Federal and State law, and applicable land management plans.

"(B) Any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including—

"(i) renewable plant material, including—

"(I) feed grains;

"(II) other agricultural commodities;

"(III) other plants and trees; and

"(IV) algae; and

"(ii) waste material, including—

"(I) crop residue;

"(II) other vegetative waste material (including wood waste and wood residues);

"(III) animal waste and byproducts (including fats, oils, greases, and manure);

"(IV) construction waste; and

"(V) food waste and yard waste.

"(C) Residues and byproducts from wood, pulp, or paper products facilities.".

Page 700, lines 2 and 3, strike "allowance or offset credit established or issued under this title," and insert "allowance, offset credit, or term offset credit, established or issued under the American Clean Energy and Security Act of 2009 or the amendments made thereby,".

Page 700, lines 6 and 7, strike "allowance or offset credit" and insert "allowance, offset credit, or term offset credit".

Page 704, line 1, strike "entities".

Page 705, after line 24, insert the following new paragraph:

"(3) For vintage year 2012, the Administrator shall allocate 0.35 percent of emission allowances established for such year under section 721(a) to avoid disincentives to the continued use of existing energy-efficient cogeneration facilities at industrial parks, to be distributed in accordance with section 783(f).

Page 713, after line 12, insert the following new paragraph:

"(3) To be distributed among the States in accordance with the formula in section 132(b) of the American Clean Energy and Security Act of 2009 and to be used exclusively for the purposes of section 202 of the American Clean Energy and Security Act of 2009 in the following amounts:

"(A) For vintage years 2012 through 2017, 0.05 percent of the emission allowances established for each year under section 721(a).

"(B) For vintage years 2018 through 2050, 0.03 percent of the emission allowances established for each year under section 721(a).

Page 715, lines 12 and 15, redesignate paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and move them 2 ems to the right.

Page 715, lines 18 through 24, move the matter 2 ems to the right.

Page 715, after line 24, insert the following new paragraph:

"(2) The Administrator shall auction, pursuant to section 791, 0.75 percent of the emission allowances established for each of vintage years 2012 and 2013 under section 721(a), and shall deposit the proceeds in the Energy Efficiency and Renewable Energy Worker Training Fund established by section 422 of the American Clean Energy and Security Act of 2009.

Page 720, line 10, insert "and subsections (s) and (t)" after "(a) through (o)".

Page 720, line 15, insert "and subsections (s) and (t)" after "(a) through (o)".

Page 722, line 3, strike "or".

Page 722, line 5, insert "or supplemental agriculture and renewable energy pursuant to subsection (u)(2) of this section," after "of this section,".

Page 723, line 10, strike "(e)(2) and (f)(2)" and insert "(e)(2), (f)(2), and (u)(2)".

Page 723, lines 23 and 24, strike "(e)(2) and (f)(2)" and insert "(e)(2), (f)(2), and (u)(2)".

Page 724, after line 8, insert the following new subsections:

"(t) COMPENSATION FOR EARLY ACTORS.—For vintage year 2012, the Administrator shall allocate for compensation for early actors 1 percent of emission allowances established under section 721(a), to be distributed in accordance with section 795 of the American Clean Energy and Security Act of 2009.

"(u) SUPPLEMENTAL AGRICULTURE AND RENEWABLE ENERGY.—

"(1) IN GENERAL.—For vintage years 2012 through 2016, the Administrator shall allocate 0.28 percent of emission allowances established under section 721(a), to be distributed in accordance with section 788 of the American Clean Energy and Security Act of 2009.

"(2) CARRYOVER.—After the Administrator distributes emission allowances pursuant to section 788 for any given vintage year, any emission allowances allocated to supplemental agriculture and renewable energy pursuant to this subsection that have not been so distributed shall, in accordance with subsection (s), be exchanged for allowances from the following vintage year and treated as part of the allocation to such entities for that later vintage year.

Page 729, line 4, strike "September 30, 2012" and insert "January 1, 2013".

Page 729, lines 9 and 10, strike "September 30, 2012" and insert "January 1, 2013".

Page 733, line 3, page 738, line 21, page 741, line 14, page 743, line 13, page 756, line 8, strike "(f)" and insert "(g)".

Page 747, lines 21, through 23, strike "provided that such year shall not be any year after 2012; or" and insert "if such unit commences operation before January 1, 2012;".

Page 748, line 3, strike the period and insert ", and before October 1, 2012; or".

Page 748, after line 3, insert the following new clause:

"(iii) calendar year 2013, if such unit commences operation on or after October 1, 2012, and before January 1, 2013.

Page 757, after line 19, insert the following new subsection:

(f) CERTAIN COGENERATION FACILITIES.—

(1) ELIGIBLE COGENERATION FACILITIES.—For purposes of this subsection, an "eligible cogeneration facility" is a facility that—

(A) is a qualifying co-generation facility (as that term is defined in section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B));

(B) derives 80 percent or more of its heat input from coal, petroleum coke, or any combination of these 2 fuels;

(C) has a nameplate capacity of 100 megawatts or greater;

(D) was in operation as of January 1, 2009, and remains in operation as of the date of any distribution of emission allowances under this subsection;

(E) in calendar years 2006 through 2008 sold, and as of the date of any distribution of emission allowances under this section sells, steam or electricity directly and solely to multiple, separately-owned industrial or commercial facili-

ties co-located at the same site with the cogeneration facility; and

(F) is not eligible to receive allowances under any other subsection of this section or under part F of this title.

(2) DISTRIBUTION.—The Administrator shall distribute the emission allowances allocated pursuant to section 782(a)(3) to owners or operators of eligible cogeneration facilities ratably based on the carbon dioxide emissions of each such facility in calendar years 2006 through 2008. The Administrator—

(A) shall not, in any year, distribute emission allowances under this subsection to the owner or operator of any eligible cogeneration facility in excess of the amount necessary to offset such facility's cost of compliance with the requirements of this title in that year; and

(B) may distribute such allowances over a period of years if annual distributions under this subsection would otherwise exceed the limitation in subparagraph (A), provided that in no event shall distributions be made under this subsection after calendar year 2025.

(3) REQUIREMENTS.—The Administrator shall, by regulation, establish requirements to ensure that the value of any emission allowances distributed pursuant to this subsection are passed through, on an equitable basis, to the facilities to which the relevant cogeneration facility provides electricity or steam deliveries, including any facility owned or operated by the owner or operator of the cogeneration facility.

Page 757, line 20, redesignate subsection (f) as subsection (g).

Page 774, line 16, amend section 788 to read as follows:

"SEC. 788. SUPPLEMENTAL AGRICULTURE AND RENEWABLE ENERGY INCENTIVES PROGRAMS.

"(a) IN GENERAL.—Emission allowances allocated pursuant to section 782(u) shall be distributed by the Administrator at the direction of the Secretary of Energy and the Secretary of Agriculture in accordance with this section. Not less than 50 percent of the allowances shall be available for the program established pursuant to subsection (b).

"(b) AGRICULTURE INCENTIVES PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary of Agriculture shall establish by rule a program to provide incentives in the form of emission allowances for activities undertaken in the agriculture sector that reduce greenhouse gas emissions or sequester carbon. Under this program, the Secretary of Agriculture shall provide incentives for projects and activities that—

"(A) reduce or avoid greenhouse gas emissions, or sequester greenhouse gases, but do not meet the criteria for offset credits established under the American Clean Energy and Security Act of 2009;

"(B) support actions to adapt to climate change; or

"(C) prevent conversion of land that would increase greenhouse gas emissions (including projects and activities that complement or supplement conservation programs administered by the Secretary).

"(2) CONSIDERATIONS.—In designing this program, the Secretary shall ensure that it provides support for—

"(A) development and demonstration of practices to reduce greenhouse gas emissions or sequester carbon in agricultural operations where there are limited recognized opportunities to achieve such emissions reductions or sequestration; and

"(B) projects that reduce greenhouse gas emissions or increase sequestration of greenhouse gases and also achieve other significant environmental benefits, such as the improvement of water or air quality.

"(3) RESEARCH.—The Secretary shall establish by rule a program to conduct research to develop additional projects and activities for crops to find additional techniques and methods to reduce greenhouse gas emissions or sequester greenhouse gases that may or may not meet the criteria for offset credits established under the American Clean Energy and Security Act of 2009.

"(4) USE OF INFORMATION.—Information and data generated by this program should, where relevant, be used to inform the development of additional offset practices and methodologies.

"(c) RENEWABLE ENERGY INCENTIVES PROGRAM.—The Secretary of Energy and the Administrator shall establish by rule a program to provide allowances to State and local governments to support the deployment of renewable energy infrastructure.".

Page 776, line 4, strike "and".

Page 776, line 8, strike the period and insert "; and".

Page 776, after line 8, insert the following new paragraph:

"(4) require that, once exchanged, the credit or other instrument be retired for purposes of use under the program by or for which it was originally issued.

Page 785, line 16, strike the closing quotation mark and the second period.

Page 785, after line 16, insert the following new section:

"SEC. 795. EXCHANGE FOR EARLY ACTION OFFSET CREDITS.

"(a) IN GENERAL.—Emission allowances allocated pursuant to section 782(t) shall be distributed by the Administrator in accordance with this section. Not later than one year after the date of enactment of this title, the Administrator shall issue regulations allowing—

"(1) any person in the United States to exchange instruments in the nature of offset credits issued before January 1, 2009, by a State or voluntary offset program with respect to which the Administrator has made an affirmative determination under section 740(a)(2), for emissions allowances established by the Administrator under section 721(a); and

"(2) the Administrator to provide compensation in the form of emission allowances to entities that do not meet the criteria of paragraph (1) and meet the criteria of this paragraph for documented early reductions or avoidance of greenhouse gas emissions or greenhouse gases sequestered before January 1, 2009, from projects begun before January 1, 2009, where—

"(A) the entity publicly stated greenhouse gas reduction goals and publicly reported against those goals;

"(B) the entity demonstrated entity-wide net greenhouse gas reductions; and

"(C) the entity demonstrates the actual projects undertaken to make reductions and documents the reductions (e.g., through documentation of engineering projects).

"(b) REGULATIONS.—Regulations issued under subsection (a) shall—

"(1) provide that a person exchanging credits under subsection (a)(1) receive emission allowances established under section 721(a) in an amount for which the monetary value is equivalent to the average monetary value of the credits during the period from January 1, 2006, to January 1, 2009, as adjusted for inflation to reflect current dollar values at the time of the exchange;

"(2) provide that a person receiving compensation for documented early action under subsection (a)(2) shall receive emission allowances established under section 721(a) in an amount that is approximately equivalent in value to the carbon dioxide equivalent per ton value received by entities in exchange for credits under paragraph (1) (as adjusted for inflation to reflect current dollar values at the time of the exchange), as determined by the Administrator;

"(3) provide that only reductions or avoidance of greenhouse gas emissions, or sequestration of greenhouse gases, achieved by activities in the United States between January 1, 2001, and January 1, 2009, may be compensated under this section, and only credits issued for such activities may be exchanged under this section;

"(4) provide that only credits that have not been retired or otherwise used to meet a voluntary or mandatory commitment, and have not expired, may be exchanged under subsection (a)(1);

"(5) require that, once exchanged, the credit be retired for purposes of use under the program by or for which it was originally issued; and

"(6) establish a deadline by which persons must exchange the credits or request compensation for early action under this section.

"(c) PARTICIPATION.—Participation in an exchange of credits for allowances or compensation for early action authorized by this section shall not preclude any person from participation in an offset credit program established under the American Clean Energy and Security Act of 2009.

"(d) DISTRIBUTION.—Of the emission allowances distributed under this section, a quantity equal to 0.75 percent of vintage year 2012 emission allowances established under section 721(a) shall be distributed pursuant to subsection (a)(1), and a quantity equal to 0.25 percent of vintage year 2012 emission allowances established under section 721(a) shall be distributed pursuant to subsection (a)(2).".

Page 856, after line 8, insert the following new section:

SEC. 340. REDUCING ACID RAIN AND MERCURY POLLUTION.

Not later than 18 months after the date of enactment of this Act, the Administrator shall submit to Congress a report that analyzes

the effects of different carbon dioxide reduction strategies and technologies on the emissions of mercury, sulfur dioxide, and nitrogen oxide, which cause acid rain, particulate matter, ground level ozone, mercury contamination, and other environmental problems. The report shall assess a variety of carbon reduction technologies, including the application of various carbon capture and sequestration technologies for both new and existing power plants. The report shall assess the current scientific and technical understanding of the interplay between the various technologies and emissions of air pollutants, identify hurdles to strategies that could cost-effectively reduce emissions of multiple pollutants, and make appropriate recommendations.

Page 856, strike lines 19 through 21.

Page 856, line 22, strike "(2)" and insert "(1)".

Page 857, strike lines 1 through 8.

Page 857, line 9, strike "(5)" and insert "(2)".

Page 857, strike line 15 and all that follows through line 7 on page 858.

Page 858, line 8, strike "(7)" and insert "(3)".

Page 858, beginning on line 23, strike "(including an entity's fraudulent or manipulative conduct with respect to regulated allowance derivatives that benefits the entity in regulated allowance markets)".

Page 860, line 3, strike "over-the-counter trading" and insert "trading regulated allowances outside of trading facilities".

Page 870, strike line 18 and all that follows through line 5 on page 871.

Page 871, line 6, strike "(7)" and insert "(6)".

Page 871, strike line 20 and all that follows through line 2 on page 876.

Page 876, line 3, strike "(d)" and insert "(c)".

Page 876, line 10, strike "President" and insert "Commodity Futures Trading Commission".

Page 876, line 19, strike "President" and insert "Commodity Futures Trading Commission".

Page 877, strike lines 1 through 11.

Page 877, line 12, strike "(f)" and insert "(d)".

Page 877, line 21, strike "(g)" and insert "(e)".

Page 878, line 4, strike "(h)" and insert "(f)".

Page 878, beginning on line 7, strike "Federal agency with jurisdiction over regulated allowance derivatives pursuant to subsection (c)(1)" and insert "Commodity Futures Trading Commission".

Page 878, line 9, strike "collect and".

Page 878, strike line 24 and all that follows through line 7 on page 879.

Page 879, line 8, strike "(E)" and insert "(D)".

Page 879, line 12, strike "(F)" and insert "(E)".

Page 879, line 14, strike "(G)" and insert "(F)".

Page 879, line 17, strike "(H)" and insert "(G)".

Page 879, beginning on line 18, strike "in conjunction with the entities, deems" and insert "and the Commodity Futures Trading Commission deem".

Page 879, line 23, strike "Federal agency" and insert "Commodity Futures Trading Commission".

Page 879, line 24, insert "Committee on Agriculture and" before "Committee".

Page 879, line 25, insert "Committee on Agriculture, Nutrition, and Forestry and" before "Committee".

Page 880, beginning on line 5, strike ", in conjunction with the Federal agency, considers" and insert "and the Commodity Futures Trading Commission consider".

Page 880, strike lines 12 through 22.

Page 880, line 23, strike "(c)" and insert "(b)".

Page 881, line 5, strike "(d)" and insert "(c)".

Page 881, line 6, strike "401(f)" and insert "401(d)".

Page 882, before line 5, insert the following:

SEC. 342. CARBON DERIVATIVE MARKETS.

(a) Section 1a(14) of the Commodity Exchange Act (7 U.S.C. 1a(14)) is amended by striking "or an agricultural commodity" and inserting ", an agricultural commodity, or any emission allowance, compensatory allowance, offset credit, or Federal renewable electricity credit established or issued under the American Clean Energy and Security Act of 2009".

(b) Section 4(c) of such Act (7 U.S.C. 6(c)) is amended by adding at the end the following:

> "(6) This subsection does not apply to any agreement, contract, or transaction for any emission allowance, compensatory allowance, offset credit, or Federal renewable electricity credit established or issued under the American Clean Energy and Security Act of 2009.".

Page 913, strike line 6 and all that follows through line 8 on page 914 and insert the following:

SEC. 358. EFFECT OF DERIVATIVES REGULATORY REFORM LEGISLATION.

(a) STATUTES.—Upon the passage of legislation that includes derivatives regulatory reform, sections 351, 352, 354, 355, 356, and 357 shall be repealed.

(b) REGULATIONS.—Upon the passage of legislation that includes derivatives regulatory reform, any regulations promulgated under section 351, 352, 354, 355, 356, or 357 shall be considered null and void.

Page 923, after line 13, insert the following new section:

SEC. 360. PRESIDENTIAL REVIEW OF REGULATIONS.

Not later than 24 months after the date of enactment of this Act, the President shall review the offset regulations and derivatives regulations promulgated pursuant to the American Clean Energy and Security Act of 2009. The President shall determine whether such regulations adequately protect the United States financial system from systemic risk.

Page 923, line 16, through page 951, line 13, amend subtitle A to read as follows:

Subtitle A—Ensuring Real Reductions in Industrial Emissions

SEC. 401. ENSURING REAL REDUCTIONS IN INDUSTRIAL EMISSIONS.

Title VII of the Clean Air Act is amended by inserting after part E the following new part:

"PART F—ENSURING REAL REDUCTIONS IN INDUSTRIAL EMISSIONS

"SEC. 761. PURPOSES.

"(a) PURPOSES OF PART.—The purposes of this part are—

"(1) to promote a strong global effort to significantly reduce greenhouse gas emissions, and, through this global effort, stabilize greenhouse gas concentrations in the atmosphere at a level that will prevent dangerous anthropogenic interference with the climate system; and

"(2) to prevent an increase in greenhouse gas emissions in countries other than the United States as a result of direct and indirect compliance costs incurred under this title.

"(b) PURPOSES OF SUBPART 1.—The purposes of subpart 1 are additionally—

"(1) to provide a rebate to the owners and operators of entities in domestic eligible industrial sectors for their greenhouse gas emission costs incurred under this title, but not for costs associated with other related or unrelated market dynamics;

"(2) to design such rebates in a way that will prevent carbon leakage while also rewarding innovation and facility-level investments in energy efficiency performance improvements; and

"(3) to eliminate or reduce distribution of emission allowances under subpart 1 when such distribution is no longer necessary to prevent carbon leakage from eligible industrial sectors.

"(c) PURPOSES OF SUBPART 2.—The purposes of subpart 2 are additionally—

"(1) to induce foreign countries, and, in particular, fast-growing developing countries, to take substantial action with respect to their greenhouse gas emissions consistent with the Bali Action Plan developed under the United Nations Framework Convention on Climate Change; and

"(2) to ensure that the measures described in subpart 2 are designed and implemented in a manner consistent with applicable international agreements to which the United States is a party.

"SEC. 762. DEFINITIONS.

"In this part:

"(1) CARBON LEAKAGE.—The term 'carbon leakage' means any substantial increase (as determined by the Administrator) in greenhouse gas emissions by industrial entities located in other countries if such increase is caused by an incremental

cost of production increase in the United States resulting from the implementation of this title.

"(2) COVERED GOOD.—The term 'covered good' means a good that, as identified by the Administrator by regulation, is either—

"(A) entered under a heading or subheading of the Harmonized Tariff Schedule of the United States that corresponds to the NAICS code for an eligible industrial sector, as established in the concordance between NAICS codes and the Harmonized Tariff Schedule of the United States prepared by the United States Census Bureau; or

"(B) a manufactured item for consumption.

"(3) ELIGIBLE INDUSTRIAL SECTOR.—The term 'eligible industrial sector' means an industrial sector determined by the Administrator under section 763(b) to be eligible to receive emission allowance rebates under subpart 1.

"(4) INDUSTRIAL SECTOR.—The term 'industrial sector' means any sector that is in the manufacturing sector (as defined in NAICS codes 31, 32, and 33) or that beneficiates or otherwise processes (including agglomeration) metal ores, including iron and copper ores, soda ash, or phosphate. The extraction of metal ores, soda ash, or phosphate shall not be considered to be an industrial sector.

"(5) MANUFACTURED ITEM FOR CONSUMPTION.—

"(A) IN GENERAL.—The term 'manufactured item for consumption' means any good—

"(i) that includes in substantial amounts one or more goods like the goods produced by an eligible industrial sector;

"(ii) with respect to which an international reserve allowance program pursuant to subpart 2 is in effect with regard to the eligible industrial sector and the quantity of international reserve allowances is not zero pursuant to section 768(b);

"(iii) with respect to which the trade intensity of the industrial sector that produces the good, as measured consistent with section 763(b)(2)(A)(iii), is at least 15 percent; and

"(iv) for which the domestic producers of the good have demonstrated, and the Administrator has determined, that the application of the international reserve allowance program pursuant to subpart 2 is technically and administratively feasible and appropriate to achieve the purposes of this part, taking into account the energy and greenhouse gas intensity of the industrial sector that produces the good, as measured consistent with section 763(b)(2)(A)(ii), and the ability of such producers to pass on cost increases and other appropriate factors.

"(B) RULE OF CONSTRUCTION.—A determination of the Administrator under subparagraph (A)(iv) shall not be considered to be a determination of the President under section 767(b).

"(6) NAICS.—The term 'NAICS' means the North American Industrial Classification System of 2002.

"(7) OUTPUT.—The term 'output' means the total tonnage or other standard unit of production (as determined by the Administrator) produced by an entity in an industrial sector. The output of the cement sector is hydraulic cement, and not clinker.

"Subpart 1—Emission Allowance Rebate Program

"SEC. 763. ELIGIBLE INDUSTRIAL SECTORS.

"(a) LIST.—

"(1) INITIAL LIST.—Not later than June 30, 2011, the Administrator shall publish in the Federal Register a list of eligible industrial sectors pursuant to subsection (b). Such list shall include the amount of the emission allowance rebate per unit of production that shall be provided to entities in each eligible industrial sector in the following two calendar years pursuant to section 764.

"(2) SUBSEQUENT LISTS.—Not later than February 1, 2013, and every four years thereafter, the Administrator shall publish in the Federal Register an updated version of the list published under paragraph (1).

"(b) ELIGIBLE INDUSTRIAL SECTORS.—

"(1) IN GENERAL.—Not later than June 30, 2011, the Administrator shall promulgate a rule designating, based on the criteria under paragraph (2), the industrial sectors eligible for emission allowance rebates under this subpart.

"(2) PRESUMPTIVELY ELIGIBLE INDUSTRIAL SECTORS.—

"(A) ELIGIBILITY CRITERIA.—

"(i) IN GENERAL.—An owner or operator of an entity shall be eligible to receive emission allowance rebates under this subpart if such entity is in an industrial sector that is included in a six-digit classification of the NAICS that meets the criteria in both clauses (ii) and (iii), or the criteria in clause (iv).

"(ii) ENERGY OR GREENHOUSE GAS INTENSITY.—As determined by the Administrator, the industrial sector had—

"(I) an energy intensity of at least 5 percent, calculated by dividing the cost of purchased electricity and fuel costs of the sector by the value of the shipments of the sector, based on data described in subparagraph (D); or

"(II) a greenhouse gas intensity of at least 5 percent, calculated by dividing—

"(aa) the number 20 multiplied by the number of tons of carbon dioxide equivalent greenhouse gas emissions (including direct emissions from fuel combustion, process emissions, and indirect emissions from the generation of electricity used to produce the output of the sector) of the sector based on data described in subparagraph (D); by

"(bb) the value of the shipments of the sector, based on data described in subparagraph (D).

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

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

"(B) METAL AND PHOSPHATE PRODUCTION CLASSIFIED UNDER MORE THAN ONE NAICS CODE.—For purposes of this section, the Administrator shall—

"(i) aggregate data for the beneficiation or other processing (including agglomeration) of metal ores, including iron and copper ores, soda ash, or phosphate with subsequent steps in the process of metal and phosphate manufacturing, regardless of the NAICS code under which such activity is classified; and

"(ii) aggregate data for the manufacturing of steel with the manufacturing of steel pipe and tube made from purchased steel in a nonintegrated process.

"(C) EXCLUSION.—The petroleum refining sector shall not be an eligible industrial sector.

"(D) DATA SOURCES.—

"(i) ELECTRICITY AND FUEL COSTS, VALUE OF SHIPMENTS.—The Administrator shall determine electricity and fuel costs and the value of shipments under this subsection from data from the United States Census Annual Survey of Manufacturers. The Administrator shall take the average of data from as many of the years of 2004, 2005, and 2006 for which such data are available. If such data are unavailable, the Administrator shall make a determination based upon 2002 or 2006 data from the most detailed industrial classification level of Energy Information Agency's Manufacturing Energy Consumption Survey (using 2006 data if it is available) and the 2002 or 2007 Economic Census of the United States (using 2007 data if it is available). If data from the Manufacturing Energy Consumption Survey or Economic Census are unavailable for any sector at the six-digit classification level in the NAICS, then the Administrator may extrapolate the information necessary to determine the eligibility of a sector under this paragraph from available Manufacturing Energy Consumption Survey or Economic Census data pertaining to a broader industrial category classified in the NAICS. If data relating to the beneficiation or other processing (including agglomeration) of metal ores, including iron and copper ores, soda ash, or phosphate are not available from the specified data sources, the Administrator shall use the best available Federal or State government data and

may use, to the extent necessary, representative data submitted by entities that perform such beneficiation or other processing (including agglomeration), in making a determination. Fuel cost data shall not include the cost of fuel used as feedstock by an industrial sector.

"(ii) IMPORTS AND EXPORTS.—The Administrator shall base the value of imports and exports under this subsection on United States International Trade Commission data. The Administrator shall take the average of data from as many of the years of 2004, 2005, and 2006 for which such data are available. If data from the United States International Trade Commission are unavailable for any sector at the six-digit classification level in the NAICS, then the Administrator may extrapolate the information necessary to determine the eligibility of a sector under this paragraph from available United States International Trade Commission data pertaining to a broader industrial category classified in the NAICS.

"(iii) PERCENTAGES.—The Administrator shall round the energy intensity, greenhouse gas intensity, and trade intensity percentages under subparagraph (A) to the nearest whole number.

"(iv) GREENHOUSE GAS EMISSION CALCULATIONS.—When calculating the tons of carbon dioxide equivalent greenhouse gas emissions for each sector under subparagraph (A)(ii)(II)(aa), the Administrator—

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

"(II) may, to the extent necessary with respect to a sector, use economic and engineering models and the best available information on technology performance levels for such sector.

"(3) ADMINISTRATIVE DETERMINATION OF ADDITIONAL ELIGIBLE INDUSTRIAL SECTORS.—

"(A) UPDATED TRADE INTENSITY DATA.—The Administrator shall designate as eligible to receive emission allowance rebates under this subpart an industrial sector that—

"(i) met the energy or greenhouse gas intensity criteria in paragraph (2)(A)(ii) as of the date of promulgation of the rule under paragraph (1); and

"(ii) meets the trade intensity criteria in paragraph (2)(A)(iii), using data from any year after 2006.

"(B) INDIVIDUAL SHOWING PETITION.—

"(i) PETITION.—In addition to designation under paragraph (2) or subparagraph (A) of this paragraph, the owner or operator of an entity in an industrial sector may petition the Administrator to designate as eligible industrial sectors under this subpart an entity or a group of entities that—

"(I) represent a subsector of a six-digit section of the NAICS code; and

"(II) meet the eligibility criteria in both clauses (ii) and (iii) of paragraph (2)(A), or the eligibility criteria in clause (iv) of paragraph (2)(A).

"(ii) DATA.—In making a determination under this subparagraph, the Administrator shall consider data submitted by the petitioner that is specific to the entity, data solicited by the Administrator from other entities in the subsector, if such other entities exist, and data specified in paragraph (2)(D).

"(iii) BASIS OF SUBSECTOR DETERMINATION.—The Administrator shall determine an entity or group of entities to be a subsector of a six-digit section of the NAICS code based only upon the products manufactured and not the industrial process by which the products are manufactured, except that the Administrator may determine an entity or group of entities that manufacture a product from primarily virgin material to be a separate subsector from another entity or group of entities that manufacture the same product primarily from recycled material.

"(iv) USE OF MOST RECENT DATA.—In determining whether to designate a sector or subsector as an eligible industrial sector under this subparagraph, the Administrator shall use the most recent data available from the sources described in paragraph (2)(D), rather than the data from the years specified in paragraph (2)(D), to determine the trade intensity of such sector or subsector, but only for determining such trade intensity.

"(v) FINAL ACTION.—The Administrator shall take final action on such petition no later than 6 months after the petition is received by the Administrator.

"SEC. 764. DISTRIBUTION OF EMISSION ALLOWANCE REBATES.

"(a) DISTRIBUTION SCHEDULE.—

"(1) IN GENERAL.—For each vintage year, the Administrator shall distribute pursuant to this section emission allowances made available under section 782(e), no later than October 31 of the preceding calendar year. The Administrator shall make such annual distributions to the owners and operators of each entity in an eligible industrial sector in the amount of emission allowances calculated under subsection (b), except that—

"(A) for vintage years 2012 and 2013, the distribution for a covered entity shall be pursuant to the entity's indirect carbon factor as calculated under subsection (b)(3);

"(B) for vintage year 2026 and thereafter, the distribution shall be pursuant to the amount calculated under subsection (b) multiplied by, except as modified by the President pursuant to section 767(d)(1)(C) for a sector—

"(i) 90 percent for vintage year 2026;

"(ii) 80 percent for vintage year 2027;

"(iii) 70 percent for vintage year 2028;

"(iv) 60 percent for vintage year 2029;

"(v) 50 percent for vintage year 2030;

"(vi) 40 percent for vintage year 2031;

"(vii) 30 percent for vintage year 2032;

"(viii) 20 percent for vintage year 2033;
"(ix) 10 percent for vintage year 2034; and
"(x) 0 percent for vintage year 2035 and thereafter.

"(2) RESUMPTION OF REDUCTION.—If the President has modified the percentage stated in paragraph (1)(B) under section 767(d)(1)(C), and the President subsequently makes a determination under section 767(c) for an eligible industrial sector that more than 85 percent of United States imports for that sector are produced or manufactured in countries that have met at least one of the criteria in that section, then the 10-year reduction schedule set forth in paragraph (1)(B) of this subsection shall begin in the next vintage year, with the percentage reduction based on the amount of the distribution of emission allowances under this section in the previous year.

"(3) NEWLY ELIGIBLE SECTORS.—In addition to receiving a distribution of emission allowances under this section in the first distribution occurring after an industrial sector is designated as eligible under section 763(b)(3), the owner or operator of an entity in that eligible industrial sector may receive a prorated share of any emission allowances made available for distribution under this section that were not distributed for the year in which the petition for eligibility was granted under section 763(b)(3)(A).

"(4) CESSATION OF QUALIFYING ACTIVITIES.—If, as determined by the Administrator, a facility is no longer in an eligible industrial sector designated under section 763—

"(A) the Administrator shall not distribute emission allowances to the owner or operator of such facility under this section; and

"(B) the owner or operator of such facility shall return to the Administrator all allowances that have been distributed to it for future vintage years and a pro-rated amount of allowances distributed to the facility under this section for the vintage year in which the facility ceases to be in an eligible industrial sector designated under section 763.

"(b) CALCULATION OF DIRECT AND INDIRECT CARBON FACTORS.—

"(1) IN GENERAL.—

"(A) COVERED ENTITIES.—Except as provided in subsection (a), for covered entities that are in eligible industrial sectors, the amount of emission allowance rebates shall be based on the sum of the covered entity's direct and indirect carbon factors.

"(B) OTHER ELIGIBLE ENTITIES.—For entities that are in eligible industrial sectors but are not covered entities, the amount of emission allowance rebates shall be based on the entity's indirect carbon factor.

"(C) NEW ENTITIES.—Not later than 2 years after the date of enactment of this title, the Administrator shall issue regulations governing the distribution of emission allowance rebates for the first and second years of operation of a new entity in an eligible industrial sector. These regulations shall provide for—

"(i) the distribution of emission allowance rebates to such entities based on comparable entities in the same sector; and

"(ii) an adjustment in the third and fourth years of operation to reconcile the total amount of emission allowance rebates received during the first and second years of operation to the amount the entity would have received during the first and second years of operation had the appropriate data been available.

"(2) DIRECT CARBON FACTOR.—The direct carbon factor for a covered entity for a vintage year is the product of—

"(A) the average annual output of the covered entity for the two years preceding the year of the distribution; and

"(B) the most recent calculation of the average direct greenhouse gas emissions (expressed in tons of carbon dioxide equivalent) per unit of output for all covered entities in the sector, as determined by the Administrator under paragraph (4).

"(3) INDIRECT CARBON FACTOR.—

"(A) IN GENERAL.—The indirect carbon factor for an entity for a vintage year is the product obtained by multiplying the average annual output of the entity for the two years preceding the year of the distribution by both the electricity emissions intensity factor determined pursuant to subparagraph (B) and the electricity efficiency factor determined pursuant to subparagraph (C) for the year concerned.

"(B) ELECTRICITY EMISSIONS INTENSITY FACTOR.—

"(i) IN GENERAL.—Each person selling electricity to the owner or operator of an entity in any sector designated as an eligible industrial sector under section 763(b) shall provide the owner or operator of the entity and the Administrator, on an annual basis, the electricity emissions intensity factor for the entity. The electricity emissions intensity factor for the entity, expressed in tons of carbon dioxide equivalents per kilowatt hour, is determined by dividing—

"(I) the annual sum of the hourly product of—

"(aa) the electricity purchased by the entity from that person in each hour (expressed in kilowatt hours); multiplied by

"(bb) the marginal or weighted average tons of carbon dioxide equivalent per kilowatt hour that are reflected in the electricity charges to the entity, as determined by the entity's retail rate arrangements; by

"(II) the total kilowatt hours of electricity purchased by the entity from that person during that year.

"(ii) USE OF OTHER DATA TO DETERMINE FACTOR.—Where it is not possible to determine the precise electricity emissions intensity factor for an entity using the methodology in clause (i), the person selling electricity shall use the monthly average data reported by the Energy Information Administration or collected and reported by the Administrator for the utility serving the entity to determine the electricity emissions intensity factor.

"(C) ELECTRICITY EFFICIENCY FACTOR.—The electricity efficiency factor is the average amount of electricity (in kilowatt hours) used per unit of output for all entities in the relevant sector, as determined by the Administrator based on the best available data, including data provided under paragraph (6).

"(D) INDIRECT CARBON FACTOR REDUCTION.—If an electricity provider received a free allocation of emission allowances pursuant to section 782(a), the Administrator shall adjust the indirect carbon factor to avoid rebates to the eligible entity for costs that the Administrator determines were not incurred by the eligible entity because the allowances were freely allocated to the eligible entity's electricity provider and used for the benefit of industrial consumers.

"(4) GREENHOUSE GAS INTENSITY CALCULATIONS.—The Administrator shall calculate the average direct greenhouse gas emissions (expressed in tons of carbon dioxide equivalent) per unit of output and the electricity efficiency factor for all covered entities in each eligible industrial sector every four years, using an average of the four most recent years of the best available data. For purposes of the lists required to be published no later than February 1, 2013, the Administrator shall use the best available data for the maximum number of years, up to 4 years, for which data are available.

"(5) ENSURING EFFICIENCY IMPROVEMENTS.—When making greenhouse gas calculations, the Administrator shall—

"(A) limit the average direct greenhouse gas emissions per unit of output, calculated under paragraph (4), for any eligible industrial sector to an amount that is not greater than it was in any previous calculation under this subsection;

"(B) limit the electricity emissions intensity factor, calculated under paragraph (3)(B) and resulting from a change in electricity supply, for any entity to an amount that is not greater than it was during any previous year; and

"(C) limit the electricity efficiency factor, calculated under paragraph (3)(C), for any eligible industrial sector to an amount that is not greater than it was in any previous calculation under this subsection.

"(6) DATA SOURCES.—For the purposes of this subsection—

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

"(B) each owner or operator of an entity in an eligible industrial sector and each department, agency, and instrumentality of the United States shall provide the Administrator with such information as the Administrator finds necessary to determine the direct carbon factor and the indirect carbon factor for each entity subject to this section.

"(c) TOTAL MAXIMUM DISTRIBUTION.—Notwithstanding subsections (a) and (b), the Administrator shall not distribute more allowances for any vintage year pursuant to this section than are allocated for use under this subpart pursuant to section 782(e) for

that vintage year. For any vintage year for which the total emission allowance rebates calculated pursuant to this section exceed the number of allowances allocated pursuant to section 782(e), the Administrator shall reduce each entity's distribution on a pro rata basis so that the total distribution under this section equals the number of allowances allocated under section 782(e).

"(d) IRON AND STEEL SECTOR.—For purposes of this section, the Administrator shall consider as in different industrial sectors—

"(1) entities using integrated iron and steelmaking technologies (including coke ovens, blast furnaces, and other ironmaking technologies); and

"(2) entities using electric arc furnace technologies.

"(e) METAL, SODA ASH, OR PHOSPHATE PRODUCTION CLASSIFIED UNDER MORE THAN ONE NAICS CODE.—For purposes of this section, the Administrator shall not aggregate data for the beneficiation or other processing (including agglomeration) of metal ores, soda ash, or phosphate with subsequent steps in the process of metal, soda ash, or phosphate manufacturing. The Administrator shall consider the beneficiation or other processing (including agglomeration) of metal ores, soda ash, or phosphate to be in separate industrial sectors from the metal, soda ash, or phosphate manufacturing sectors. Industrial sectors that beneficiate or otherwise process (including agglomeration) metal ores, soda ash, or phosphate shall not receive emission allowance rebates under this section related to the activity of extracting metal ores, soda ash, or phosphate.

"(f) COMBINED HEAT AND POWER.—For purposes of this section, and to achieve the purpose set forth in section 761(b)(2), the Administrator may consider entities to be in different industrial sectors or otherwise take into account the differences among entities in the same industrial sector, based upon the extent to which such entities use combined heat and power technologies.

"Subpart 2—Promoting International Reductions in Industrial Emissions

"SEC. 765. INTERNATIONAL NEGOTIATIONS.

"(a) FINDING.—Congress finds that the purposes of this subpart, as set forth in section 761(c), can be most effectively addressed and achieved through agreements negotiated between the United States and foreign countries.

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

"(c) NOTIFICATION OF FOREIGN COUNTRIES.—

"(1) IN GENERAL.—As soon as practicable after the date of the enactment of this title, the President shall provide a notification on climate change described in paragraph (2) to each foreign country the products of which are not exempted under section 768(a)(1)(E).

"(2) NOTIFICATION DESCRIBED.—A notification described in this paragraph is a notification that consists of—

"(A) a statement of the policy of the United States described in subsection (b); and

"(B) a declaration—

"(i) requesting the foreign country to take appropriate measures to limit the greenhouse gas emissions of the foreign country; and

"(ii) indicating that, beginning on January 1, 2020, the international reserve requirements of this subpart may apply to a covered good.

"SEC. 766. UNITED STATES NEGOTIATING OBJECTIVES WITH RESPECT TO MULTILATERAL ENVIRONMENTAL NEGOTIATIONS.

"(a) IN GENERAL.—The negotiating objectives of the United States with respect to multilateral environmental negotiations described in this subpart are—

"(1) to reach an internationally binding agreement in which all major greenhouse gas-emitting countries contribute equitably to the reduction of global greenhouse gas emissions;

"(2)(A) to include in such international agreement provisions that recognize and address the competitive imbalances that lead to carbon leakage and may be created between parties and non-parties to the agreement in domestic and export markets; and

"(B) not to prevent parties to such agreement from addressing the competitive imbalances that lead to carbon leakage and may be created by the agreement among parties to the agreement in domestic and export markets ; and

"(3) to include in such international agreement agreed remedies for any party to the agreement that fails to meet its greenhouse gas reduction obligations in the agreement.

"(b) RULE OF CONSTRUCTION.—Nothing in subsection (a)(2) shall be construed to require the United States to alter the provisions of section 764 .

"SEC. 767. PRESIDENTIAL REPORTS AND DETERMINATIONS.

"(a) REPORT.—Not later than January 1, 2017, and every 2 years thereafter, the President shall submit a report to Congress on the effectiveness of the distribution of emission allowance rebates under subpart 1 in mitigating carbon leakage in eligible industrial sectors. Such report shall also include—

"(1) an assessment, for each eligible industrial sector receiving emission allowance rebates, as to whether, and by how much, the per unit cost of production has increased for that sector as a result of compliance with section 722 (as determined in a manner consistent with section 764(b)), taking into account the provision of the emission allowance rebates to that industrial sector and the benefit received by that industrial sector from the provision of free allowances to electricity providers pursuant to section 782(a);

"(2) recommendations on how to better achieve the purposes of this subpart, including an assessment of the feasibility and usefulness of an international reserve allowance program for the eligible industrial sector under section 768;

"(3) to the extent the President determines that an international reserve allowance program would not be useful for the eligible industrial sector because its exposure to carbon leak-

age is the result of competition in export markets with goods produced in countries not implementing similar greenhouse gas emission reduction policies, an identification of, and to the extent appropriate a description of how the President will implement, alternative actions or programs consistent with the purposes of this subpart (and, in such case, the President may determine not to apply an international reserve allowance program to the eligible industrial sector under subsection (b)); and

"(4) an assessment of the amount and duration of assistance, including distribution of free allowances, being provided to industrial sectors in other developed countries to mitigate costs of compliance with domestic greenhouse gas reduction programs in such countries.

"(b) PRESIDENTIAL DETERMINATION.—

"(1) IN GENERAL.—If, by January 1, 2018, a multilateral agreement consistent with the negotiating objectives set forth in section 766 has not entered into force with respect to the United States, the President shall establish an international reserve allowance program for each eligible industrial sector to the extent provided under section 768 unless—

"(A) the President determines and certifies to the Congress with respect to such eligible industrial sector that such program would not be in the national economic interest or environmental interest of the United States; and

"(B) not later than 90 days after the President transmits the certification described in subparagraph (A), a joint resolution is enacted into law that approves the determination of the President described in subparagraph (A).

"(2) CONTENTS OF JOINT RESOLUTION.—For purposes of this subsection, the term 'joint resolution' means only a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: 'That the Congress approves the determination of the President under section 768(b)(1)(A) of the Clean Air Act transmitted to the Congress on _____.', the blank space being filled with the appropriate date.

"(3) CONGRESSIONAL PROCEDURES.—Subsections (c), (d), (e), and (f) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192 (c), (d), (e), and (f)) shall apply to a joint resolution under this subsection to the same extent as such subsections apply to a joint resolution under section 152 of such Act.

"(4) RULE OF CONSTRUCTION.—For purposes of this section and section 768, if the President transmits a multilateral agreement to Congress (regardless of whether it is transmitted as a treaty for ratification by the Senate or another international agreement for implementation by law enacted by the Congress) indicating that the agreement is consistent with the negotiating objectives set forth in section 766, such agreement will be considered to be consistent with such negotiating objectives as of the date on which the Senate ratifies the treaty, or legislation is enacted implementing such other agreement, unless the Senate (in the case of ratification) or the implementing legislation expressly provides that the multilateral agreement shall not be treated as consistent with such negotiating objectives for purposes of this section and section 768.

"(c) DETERMINATIONS WITH RESPECT TO ELIGIBLE INDUSTRIAL SECTORS.—If the President establishes an international reserve allowance program pursuant to subsection (b), then not later than June 30, 2018, and every four years thereafter, the President, in consultation with the Administrator and other appropriate agencies, shall determine, for each eligible industrial sector, whether or not more than 85 percent of United States imports of covered goods with respect to that sector are produced or manufactured in countries that have met at least one of the following criteria:

"(1) The country is a party to an international agreement to which the United States is a party that includes a nationally enforceable and economy-wide greenhouse gas emissions reduction commitment for that country that is at least as stringent as that of the United States.

"(2) The country is a party to a multilateral or bilateral emission reduction agreement for that sector to the which the United States is a party.

"(3) The country has an annual energy or greenhouse gas intensity, as described in section 763(b)(2)(A)(ii), for the sector that is equal to or less than the energy or greenhouse gas intensity for such industrial sector in the United States in the most recent calendar year for which data are available.

"(d) EFFECT OF PRESIDENTIAL DETERMINATION.—

"(1) REQUIRED ACTIONS.—If the President makes a determination under subsection (c) with respect to an eligible industrial sector that 85 percent or less of United States imports of covered goods with respect to the sector are produced or manufactured in countries that have met one or more of the criteria in subsection (c), then the President shall, not later than June 30, 2018, and every four years thereafter—

"(A) assess the extent to which the emission allowance rebates provided pursuant to subpart 1 and the benefit received by that industrial sector from the provision of free allowances to electricity providers pursuant to section 782(a) have mitigated or addressed, or could mitigate or address, carbon leakage in that sector;

"(B) assess the extent to which an international reserve allowance program has mitigated or addressed, or could mitigate or address, carbon leakage in that sector; and

"(C) with respect to that sector—

"(i) modify the percentage by which direct and indirect carbon factors will be multiplied under section 764(a)(1)(B); and

"(ii) apply or continue to apply an international reserve allowance program under section 768 with respect to imports of covered goods with respect to that sector.

"(2) PROHIBITED ACTIONS.—If the President makes a determination under subsection (c) with respect to an eligible industrial sector that more than 85 percent of United States imports of covered goods with respect to the sector are produced or manufactured in countries that have met one or more of the criteria in subsection (c), then the President may not apply or continue to apply an international reserve allowance program

under section 768 with respect to imports of covered goods with respect to that sector.

"(e) REPORT TO CONGRESS.—Not later than June 30, 2018, and every four years thereafter, the President shall transmit to the Congress a report providing notice of any determination made under subsection (c), explaining the reasons for such determination, and identifying the actions taken by the President under subsection (d).

"SEC. 768. INTERNATIONAL RESERVE ALLOWANCE PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Administrator, with the concurrence of Commissioner responsible for U.S. Customs and Border Protection, shall issue regulations—

"(A) establishing an international reserve allowance program for the sale, exchange, purchase, transfer, and banking of international reserve allowances for covered goods with respect to the eligible industrial sector;

"(B) ensuring that the price for purchasing the international reserve allowances from the United States on a particular day is equivalent to the auction clearing price for emission allowances under section 722 for the most recent emission allowance auction;

"(C) establishing a general methodology for calculating the quantity of international reserve allowances that a United States importer of any covered good must submit;

"(D) requiring the submission of appropriate amounts of such allowances for covered goods with respect to the eligible industrial sector that enter the customs territory of the United States;

"(E) exempting from the requirements of subparagraph (D) such products that are the origin of—

"(i) any country determined to meet any of the standards provided in section 767(c);

"(ii) any foreign country that the United Nations has identified as among the least developed of developing countries; or

"(iii) any foreign country that the President has determined to be responsible for less than 0.5 percent of total global greenhouse gas emissions and less than 5 percent of United States imports of covered goods with respect to the eligible industrial sector;

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

"(G) establishing procedures that prevent circumvention of the international reserve allowance requirement for covered goods with respect to the eligible industrial sector that are manufactured or processed in more than one foreign country.

"(2) PURPOSE OF PROGRAM.—The Administrator shall establish the program under paragraph (1) consistent with international agreements to which the United States is a party, in a manner that minimizes the likelihood of carbon leakage as a result of differences between—

"(A) the direct and indirect costs of complying with section 722; and

"(B) the direct and indirect costs, if any, of complying in other countries with greenhouse gas regulatory programs, requirements, export tariffs, or other measures adopted or imposed to reduce greenhouse gas emissions.

"(b) EMISSION ALLOWANCE REBATES.—In establishing a general methodology for purposes of subsection (a)(1)(C), the Administrator shall include an adjustment to the quantity of international reserve allowances based on the value of emission allowance rebates distributed under subpart 1 and the benefit received by the eligible industrial sector concerned from the provision of free allowances to electricity providers pursuant to section 782(a) and may, if appropriate, determine that the quantity of international reserve allowances should be reduced as low as to zero.

"(c) EFFECTIVE DATE.—The international reserve allowance program may not apply to imports of covered goods entering the customs territory of the United States before January 1, 2020.

"(d) COVERED ENTITIES.—International reserve allowances may not be used by covered entities to comply with section 722.

"SEC. 769. IRON AND STEEL SECTOR.

"For purposes of this subpart, the Administrator shall consider to be in the same eligible industrial sector—

"(1) entities using integrated iron and steelmaking technologies (including coke ovens, blast furnaces, and other ironmaking technologies); and

"(2) entities using electric arc furnace technologies.".

Page 955, lines 15 through 19, amend section 422 to read as follows:

SEC. 422. INCREASED FUNDING FOR ENERGY WORKER TRAINING PROGRAM.

(a) AUTHORIZATION.—Section 171(e)(8) of the Workforce Investment Act of 1998 (29 U.S.C. 2916(e)(8)) is amended by striking "$125,000,000" and inserting "$150,000,000".

(b) ESTABLISHMENT OF FUND.—There is hereby established in the Treasury a separate account that shall be known as the Energy Efficiency and Renewable Energy Worker Training Fund.

(c) AVAILABILITY OF AMOUNTS.—Subject to subtitle F of title IV, all amounts deposited into the Energy Efficiency and Renewable Energy Worker Training Fund shall be available to the Secretary to carry out section 171(e)(8) of the Workforce Investment Act of 1998 (29 U.S.C. 2916(e)(8)) subject to further appropriation.

Page 955, after line 19, insert the following new sections:

SEC. 423. DEVELOPMENT OF INFORMATION AND RESOURCES CLEARINGHOUSE FOR VOCATIONAL EDUCATION AND JOB TRAINING IN RENEWABLE ENERGY SECTORS.

(a) DEVELOPMENT OF CLEARINGHOUSE.—Not later than 18 months after the date of enactment of this Act, the Secretary of Labor, in collaboration with the Secretary of Energy and the Secretary of Education, shall develop an internet based information and resources clearinghouse to aid career and technical education and job training programs for the renewable energy sectors. In establishing the clearinghouse, the Secretary shall—

(1) collect and provide information that addresses the consequences of rapid changes in technology and regional disparities for renewable energy training programs and provides best practices for training and education in light of such changes and disparities;

(2) place an emphasis on facilitating collaboration between the renewable energy industry and job training programs and on identifying industry and technological trends and best practices, to better help job training programs maintain quality and relevance; and

(3) place an emphasis on assisting programs that cater to high-demand middle-skill, trades, manufacturing, contracting, and consulting careers.

(b) SOLICITATION AND CONSULTATION.—In developing the clearinghouse pursuant to subsection (a), the Secretary shall solicit information and expertise from businesses and organizations in the renewable energy sector and from institutions of higher education, career and technical schools, and community colleges that provide training in the renewable energy sectors. The Secretary shall solicit a comprehensive peer review of the clearinghouse by such entities not less than once every 2 years. Nothing in this subsection should be interpreted to require the divulgence of proprietary or competitive information.

(c) CONTENTS OF CLEARINGHOUSE.—

(1) SEPARATE SECTION FOR EACH RENEWABLE ENERGY SECTOR.—The clearinghouse shall contain separate sections developed for each of the following renewable energy sectors:

(A) Solar energy systems.

(B) Wind energy systems.

(C) Energy transmission systems.

(D) Geothermal systems of energy and heating.

(E) Energy efficiency technical training.

(2) ADDITIONAL REQUIREMENTS.—In addition to the information required in subsection (a), each section of the clearinghouse shall include information on basic environmental science and processes needed to understand renewable energy systems, Federal government and industry resources, and points of contact to aid institutions in the development of placement programs for apprenticeships and post graduation opportunities, and information and tips about a green workplace, energy efficiency, and relevant environmental topics and information on available industry recognized certifications in each area.

(d) DISSEMINATION.—The clearinghouse shall be made available via the Internet to the general public. Notice of the completed clearinghouse and any major revisions thereto shall also be provided—

(1) to each Member of Congress; and

(2) on the websites of the Departments of Education, Energy, and Labor.

(e) REVISION.—The Secretary of Labor shall revise and update the clearinghouse on a regular basis to ensure its relevance.

SEC. 424. MONITORING PROGRAM EFFECTIVENESS.

The Secretary of Labor shall monitor the potential growth of affected and displaced workers to ensure that the necessary funding continues to support the number of workers affected.

SEC. 424A. GREEN CONSTRUCTION CAREERS DEMONSTRATION PROJECT.

(a) ESTABLISHMENT AND AUTHORITY.—The Secretary of Labor, in consultation with the Secretary of Energy, shall, not later than 180 days after the enactment of this Act, establish a Green Construction Careers demonstration project by rules, regulations, and guidance in accordance with the provisions of this section. The purpose of the demonstration project shall be to promote middle class careers and quality employment practices in the green construction sector among targeted workers and to advance efficiency and performance on construction projects related to this Act. In order to advance these purposes, the Secretary shall identify projects, including residential retrofitting projects, funded directly by or assisted in whole or in part by or through the Federal Government pursuant to this Act or by any other entity established in accordance with this Act, to which all of the following shall apply.

(b) REQUIREMENTS.—The Secretaries may establish such terms and conditions for the demonstration projects as the Secretaries determine are necessary to meet the purposes of subsection (a), including establishing minimum proportions of hours to be worked by targeted workers on such projects. The Secretaries may require the contractors and subcontractors performing construction services on the project to comply with the terms and conditions as a condition of receiving funding or assistance from the Federal Government under this Act.

(c) EVALUATION.—The Secretaries shall evaluate the demonstration projects against the purposes of this section at the end of 3 years from initiation of the demonstration project. If the Secretaries determine that the demonstration projects have been successful, the Secretaries may identify further projects to which of the provisions of this section shall apply.

(d) GAO REPORT.—The Comptroller General shall prepare and submit a report to the Committee on Health, Education, Labor and Pensions and the Committee on Energy and Natural Resources of the Senate and the Committee on Education and Labor and the Committee on Energy and Commerce of the House of Representatives not later than 5 years after the date of enactment of this Act, which shall advise the committees of the results of the demonstration projects and make appropriate recommendations.

(e) DEFINITION AND DESIGNATION OF TARGETED WORKERS.—As used in this section, the term "targeted worker" means an individual who resides in the same labor market area (as defined in section 101(18) of the Workforce Investment Act of 1998 (29 U.S.C. 2801(18))) as the project and who—

(1) is a member of a targeted group, within the meaning of section 51 of the Internal Revenue Code of 1986, other than an individual described in subsection (d)(1)(C) of such section;

(2)(A) resides in a census tract in which not less than 20 percent of the households have incomes below the Federal poverty guidelines; or

(B) is a member of a family that received a total family income that, during the 2-year period prior to employment on the project or admission to the pre-apprenticeship program, did not exceed 200 percent of the Federal poverty guidelines (exclusive of unemployment compensation, child support payments, pay-

ments described in section 101(25)(A) of the Workforce Investment Act (29 U.S.C. 2801(25)(A)), and old-age and survivors insurance benefits received under section 202 of the Social Security Act (42 U.S.C. 402); or

(3) is a displaced homemaker, as such term is defined in section 3(10) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302(10)).

(f) QUALIFIED PRE-APPRENTICESHIP PROGRAM.—A qualified pre-apprenticeship program is a pre-apprenticeship program that has demonstrated an ability to recruit, train, and prepare for admission to apprenticeship programs individuals who are targeted workers.

(g) QUALIFIED APPRENTICESHIP AND OTHER TRAINING PROGRAMS.—

(1) PARTICIPATION BY EACH CONTRACTOR REQUIRED.—Each contractor and subcontractor that seeks to provide construction services on projects identified by the Secretaries pursuant to subsection (a) shall submit adequate assurances with its bid or proposal that it participates in a qualified apprenticeship or other training program, with a written arrangement with a qualified pre-apprenticeship program, for each craft or trade classification of worker that it intends to employ to perform work on the project.

(2) DEFINITION OF QUALIFIED APPRENTICE SHIP OR OTHER TRAINING PROGRAM.—

(A) IN GENERAL.—For purposes of this section, the term "qualified apprenticeship or other training program" means an apprenticeship or other training program that qualifies as an employee welfare benefit plan, as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)).

(B) CERTIFICATION OF OTHER PROGRAMS IN CERTAIN LOCALITIES.—In the event that the Secretary of Labor certifies that a qualified apprenticeship or other training program (as defined in subparagraph (A)) for a craft or trade classification of workers that a prospective contractor or subcontractor intends to employ, is not operated in the locality where the project will be performed, an apprenticeship or other training program that is not an employee welfare benefit plan (as defined in such section) may be certified by the Secretary as a qualified apprenticeship or other training program provided it is registered with the Office of Apprenticeship of the Department of Labor, or a State apprenticeship agency recognized by the Office of Apprenticeship for Federal purposes.

(h) FACILITATING COMPLIANCE.—The Secretary may require Federal contracting agencies, recipients of Federal assistance, and any other entity established in accordance with this Act to require contractors to enter into an agreement in a manner comparable with the standards set forth in sections 3 and 4 of Executive Order 13502 in order to achieve the purposes of this section, including any requirements established by subsection (b).

(i) LIMITATION.—The requirements of this section shall not apply to any project funded under this Act in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, or the United States Virgin Islands, unless

participation is requested by the governor of such territories within 1 year of the promulgation of rules under this Act.

Page 1007, line 23, through page 1008, line 14, strike paragraph (3).

Page 1019, line 23, through page 1020, line 6, amend subparagraph (B) to read as follows:

"(B) Without regard to section 553 of title 5 of such Code, the Administrator may by rule promulgate as final, to be effective until no later than two years after the date of the enactment of the American Clean Energy and Security Act of 2009, any procedures that are substantially the same as the procedures governing the Supplemental Nutrition Assistance Program in section 273.2, 273.12, or 273.15 of title 7, Code of Federal Regulations.

Page 1025, line 1, through page 1026, line 11, amend section 432 to read as follows:

SEC. 432. MODIFICATION OF EARNED INCOME CREDIT AMOUNT FOR INDIVIDUALS WITH NO QUALIFYING CHILDREN.

(a) IN GENERAL.—Subsection (b) of section 32 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR INDIVIDUALS WITH NO QUALIFYING CHILDREN WHO ARE AFFECTED BY THE AMERICAN CLEAN ENERGY AND SECURITY ACT OF 2009.—

"(A) IN GENERAL.—In the case of any household which the Secretary determines experienced a reduction in purchasing power as a result of the provisions of, or amendments made by, the American Clean Energy and Security Act of 2009 (determined without regard to this paragraph and section 2201 of the Social Security Act)—

"(i) INCREASE IN CREDIT PERCENTAGE AND PHASEOUT PERCENTAGE.—The table contained in paragraph (1)(A) shall be applied by substituting '15.3' for '7.65'.

"(ii) INCREASE IN BEGINNING PHASEOUT AMOUNT.—The table contained in paragraph (2)(A) shall be applied by substituting '$11,640' for '$5,280'.

"(B) INFLATION ADJUSTMENT.—

"(i) IN GENERAL.—In the case of any taxable year beginning after 2012, the $11,640 amount in subparagraph (A)(ii) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins determined by substituting 'calendar year 2011' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) ROUNDING.—Subparagraph (A) of subsection (j)(2) shall apply after taking into account any increase under clause (i) in the same manner as if such increase were under paragraph (1) of subsection (j).

"(iii) COORDINATION WITH OTHER INFLATION ADJUSTMENTS.—Paragraph (1) of subsection (j) shall not apply

to the dollar amount substituted under subparagraph (A)(ii).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

Page 1033, lines 7 and 8, strike "from the International Clean Technology Account" and insert "under this subtitle".

Page 1033, lines 11 through 13, strike "distributions from the International Clean Technology Account" and insert "the program established under this subtitle".

Page 1033, lines 14 through 18, strike paragraph (7) (and redesignate the subsequent paragraphs accordingly).

Page 1034, lines 11 and 12, strike "from the International Clean Technology Account" and insert "allocated under section 782(o) of the Clean Air Act (as added by section 321 of this Act) for distribution pursuant to this subtitle".

Page 1034, lines 14 and 15, strike "International Clean Technology Account" and insert "program established under this subtitle".

Page 1035, line 7, strike "from the International Clean Technology Account" and insert "pursuant to this subtitle".

Page 1039, lines 5 through 7, strike ", from the International Clean Technology Account for qualifying activities that take place in eligible countries" and insert "allocated for such purpose under section 782(o) of the Clean Air Act (as added by section 321 of this Act) for qualifying activities that take place in eligible countries, in accordance with the requirements of this subtitle".

Page 1039, line 8, through page 1040, line 13, amend subsection (b) to read as follows:

(b) DEFINITION.—For the purposes of this section the term "clean technology" means any technology or service related to the qualifying activities identified in section 445.

Page 1040, lines 18 and 19, strike "from the International Clean Technology Account" and insert "under this subtitle".

Page 1046, lines 11 through 14, amend subsection (f) to read as follows:

(f) ANNUAL REPORTS.—Not later than March 1, 2012, and annually thereafter, the President shall submit to the appropriate congressional committees a report on the assistance provided under this subtitle during the prior fiscal year. Such report shall include—

(1) a description of the amount and value of allowances distributed during the prior fiscal year;

(2) a description of each activity that received assistance during the prior fiscal year, and a description of the anticipated and actual outcomes;

(3) an assessment of any adverse effects to human health, safety, or welfare, the environment, or natural resources as a result of activities supported under this subtitle;

(4) an assessment of the success of the assistance provided under this subtitle to improving the technical and institutional capacity to implement substantial emissions reductions;

(5) an estimate of the greenhouse gas emissions reductions, sequestration, or avoidance achieved by assistance provided under this subtitle during the prior fiscal year; and

(6) an assessment whether any funds expended for the benefit of any qualifying activity undermined the protection of intellectual property rights for clean technology, as formulated in the Agreement on Trade-Related Aspects of Intellectual Property Rights, referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)) and applicable intellectual property provisions of bilateral trade agreements.

Page 1046, after line 14, insert the following new subsection:

(g) NOT ELIGIBLE FOR OFFSET CREDIT.—Activities that receive support under this subtitle shall not be issued offset credits for the greenhouse gas emissions reductions or avoidance, or greenhouse gas sequestration, produced by such activities.

Page 1113, after line 11, insert the following new paragraph:

(5) RESEARCH ON HURRICANES.—The authorized uses of allowances under this section shall include establishment of projects or programs to conduct research and monitoring on the effect of ongoing climate change on the frequency and intensity of hurricanes.

Page 1130, line 22, strike "There" and insert "Subject to subtitle F of title IV, there".

Page 1131, line 1, strike "All" and insert "Subject to subtitle F of title IV, all".

Page 1161, line 24, strike "There" and insert "Subject to subtitle F of title IV, there".

Page 1162, line 4, strike "There" and insert "Subject to subtitle F of title IV, there".

Page 1162, lines 10 through 12, strike "Such appropriations" and all that follows through "Clean Air Act.".

Page 1165, line 2, insert "and in accordance with the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450(f)" after "Wildlife Service".

Page 1166, lines 3 through 5, strike "Such appropriations" and all that follows through "782(m)".

Page 1169, line 2, before the period, insert "and for natural resource adaptation activities on State and private forest lands carried out under the Cooperative Forestry Assistance Act of 1978".

Page 1201, after line 6, add the following new subtitle:

Subtitle F—Deficit Neutral Budgetary Treatment

SEC. 496. DEFICIT NEUTRALITY.

(a) FUNDS ESTABLISHED.—Funds established under sections 422, 467, and 480 of this Act are to be treated as separate accounts in the Treasury and shall be known as "the Funds".

(b) AVAILABILITY.—Funds appropriated or made available pursuant to sections 422(b), 467(b), and 480(b)(2) are only available for the purposes set forth under this Act. Receipts in the Funds and

appropriations therefrom shall not be available and are precluded from obligation for any other purpose.

(c) ESTIMATION OF BUDGETARY IMPACT.—For the purposes of estimating the revenue and spending effects of this Act;

(1) the revenue assumed to be deposited into the Funds established under sections 422, 467, and 480, shall be attributed to this Act; and

(2) the authorization or availability of appropriations from the Funds shall be treated as new direct spending and attributed to this Act.

(d) BUDGETARY TREATMENT.—For the purposes of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985, the Funds, and amounts subsequently appropriated or made available for the purposes for which such Funds were established, shall be deemed to be included on the list of appropriations referenced under section 250(c)(17) of that Act. Such appropriations from each Fund shall not be in excess of the amounts deposited into the respective Fund in the previous year.

At the end of the bill, add the following new title:

TITLE V—AGRICULTURAL AND FORESTRY RELATED OFFSETS

Subtitle A—Offset Credit Program From Domestic Agricultural and Forestry Sources

SEC. 501. DEFINITIONS.

(a) IN GENERAL.—In this title:

(1) ADDITIONAL.—The term "additional", when used with respect to reductions or avoidance of greenhouse gas emissions, or to sequestration of greenhouse gases, means reductions, avoidance, or sequestration that result in a lower level of net greenhouse gas emissions or atmospheric concentrations than would occur in the absence of an offset project.

(2) ADDITIONALITY.—The term "additionality" means the extent to which reductions or avoidance of greenhouse gas emissions, or sequestration of greenhouse gases, are additional.

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

(4) ADVISORY COMMITTEE.—The term "Advisory Committee" means the USDA Greenhouse Gas Emission Reduction and Sequestration Advisory Committee established under section 1245(f) of the Food Security Act of 1985 (16 U.S.C. 3845).

(5) GREENHOUSE GAS.—The term "greenhouse gas" means any of the following:

(A) Carbon dioxide.

(B) Methane.

(C) Nitrous oxide.

(D) Sulfur hexafluoride.

(E) Hydrofluorocarbons from a chemical manufacturing process at an industrial stationary source.

(F) Any perfluorocarbon.

(G) Nitrogen trifluoride.

(H) Any other anthropogenic gas designated as a greenhouse gas by the Administrator.

(6) LEAKAGE.—The term "leakage" means a significant and quantifiable increase in greenhouse gas emissions, or a significant and quantifiable decrease in sequestration, which is caused by an offset practice and occurs outside the boundaries of the offset practice.

(7) OFFSET CREDIT.—The term "offset credit" means a tradeable compliance instrument that—

(A) represents the reduction, avoidance, or sequestration of 1 ton of carbon dioxide equivalent; and

(B) is issued pursuant to this title.

(8) OFFSET PRACTICE.—The term "offset practice" means an activity that reduces, avoids, or sequesters greenhouse gas emissions, and for which offset credits may be issued pursuant to this title.

(9) OFFSET PRODUCER.—The term "offset producer" means an owner, operator, landlord, tenant, or sharecropper who has or shares responsibility for ensuring that an offset practice is established and maintained during the crediting period for purposes of an offset credit.

(10) OFFSET PROJECT.—The term "offset project" means a practice or set of practices that reduce or avoid greenhouse gas emissions, or sequester greenhouse gases as implemented by an offset producer.

(11) OFFSET PROJECT DEVELOPER.—The term "offset project developer" means the offset producer or designee of the offset producer.

(12) PRACTICE TYPE.—The term "practice type" means a discrete category of offset practices for which the Secretary develops a standardized methodology to accurately estimate the amount of greenhouse gas emissions reduced or avoided or greenhouse gases sequestered.

(13) REVERSAL.—The term "reversal" means an intentional or unintentional loss of sequestered greenhouse gases to the atmosphere.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) SEQUESTRATION AND SEQUESTERED.—The terms "sequestered" and "sequestration" mean the separation, isolation, or removal of greenhouse gases from the atmosphere, as determined by the Secretary. The terms include biological sequestration, but do not include ocean fertilization techniques.

(16) TERM OFFSET CREDIT.—The term "term offset credit" means a compliance instrument authorized under section 504(d).

(b) AGRICULTURAL AND FORESTRY EXCEPTION TO DEFINITION OF CAPPED SECTOR.—For purposes of this title and title III of this Act, and amendments made by such titles, the term "capped sector" means a sector of economic activity that directly emits capped emissions, including the industrial sector, the electricity generation sector, the transportation sector, and the residential and commer-

cial sectors (to the extent they burn oil or natural gas), but not including the agricultural or forestry sectors.

SEC. 502. ESTABLISHMENT OF OFFSET CREDIT PROGRAM FROM DOMESTIC AGRICULTURAL AND FORESTRY SOURCES.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this title, the Secretary shall establish a program governing the generation of offset credits from domestic agricultural and forestry sources.

(b) REQUIREMENTS.—The program described in subsection (a) shall—

(1) ensure that offset credits represent verifiable and additional greenhouse gas emission reductions or avoidance, or increases in sequestration; and

(2) ensure that offset credits issued for sequestration offset projects are only issued for greenhouse gas reductions that result in a permanent net reduction in atmospheric greenhouse gases.

(c) DUTIES OF SECRETARY.—In addition to the duties described in subsection (a) and section 1245 of the Food Security Act of 1985 (16 U.S.C. 3845), the Secretary shall, with respect to practices relating to offset credits from agricultural and forestry sources—

(1) establish by rule methodologies by practice types for quantifying greenhouse gas benefits;

(2) establish by rule methodologies for each practice type for establishing activity baselines and determining additionality;

(3) establish by rule methodologies by practice types for accounting for and mitigating potential leakage;

(4) establish rules to account for and address reversals;

(5) establish rules to require third-party verification;

(6) provide technical assistance to offset project developers using funds appropriated to the Conservation Operations account;

(7) establish rules for approval of offset project plans;

(8) establish rules for certification of implementation of offset project plans;

(9) establish by rule requirements for reporting and record keeping; and

(10) conduct audits.

SEC. 503. LIST OF ELIGIBLE DOMESTIC AGRICULTURAL AND FORESTRY OFFSET PRACTICE TYPES.

(a) LIST REQUIRED.—

(1) PREPARATION AND PUBLICATION.—Not later than 1 year after the date of enactment of this title, the Secretary shall prepare and publish in the Federal Register a list of domestic agricultural and forestry practice types that are eligible to generate offset credits under this title because the practices avoid or reduce greenhouse gas emissions or sequester greenhouse gases.

(2) RECOMMENDATIONS.—In preparing the list under paragraph (1), the Secretary shall take into consideration the recommendations of the Advisory Committee.

(b) INITIAL LIST.—At a minimum, the list prepared under this section shall include those practices that avoid or reduce greenhouse gas emissions or sequester greenhouse gases, such as—

(1) agricultural, grassland, and rangeland sequestration and management practices, including—

(A) altered tillage practices;

(B) winter cover cropping, continuous cropping, and other means to increase biomass returned to soil in lieu of planting followed by fallowing;

(C) reduction of nitrogen fertilizer use or increase in nitrogen use efficiency;

(D) reduction in the frequency and duration of flooding of rice paddies;

(E) reduction in carbon emissions from organic soils;

(F) reduction in greenhouse gas emissions from manure and effluent; and

(G) reduction in greenhouse gas emissions due to changes in animal management practices, including dietary modifications;

(2) changes in carbon stocks attributed to land use change and forestry activities, including—

(A) afforestation or reforestation of acreage that is not forested;

(B) forest management resulting in an increase in forest carbon stores including but not limited to harvested wood products;

(C) management of peatland or wetland;

(D) conservation of grassland and forested land;

(E) improved forest management, including accounting for carbon stored in wood products;

(F) reduced deforestation or avoided forest conversion;

(G) urban tree-planting and maintenance;

(H) agroforestry; and

(I) adaptation of plant traits or new technologies that increase sequestration by forests; and

(3) manure management and disposal, including—

(A) waste aeration;

(B) biogas capture and combustion; and

(C) application to fields as a substitute for commercial fertilizer.

(c) ADDITIONS AND REVISIONS TO LIST.—

(1) PERIODIC REVISION.—Not later than 2 years after the date of enactment of this title, and every 2 years thereafter, the Secretary, after public notice and opportunity for comment, shall add to and revise the types of offset practices to the list established under subsection (a) if those types of practices meet the standards for environmental integrity that are consistent with the purposes of this title.

(2) CONSIDERATION OF PETITIONS.—The Secretary shall—

(A) consider petitions to add types of offset practices to the list established under subsection (a); and

(B) add those types of offset practices to the list if the types of offset practices meet standards for environmental integrity consistent with the purposes of this title.

(3) TIME FOR CONSIDERATION OF PETITIONS.—Not later than 1 year after the receipt of a petition under paragraph (2), the Secretary shall make a decision to either grant or deny the petition and publish a written explanation of the reasons for the

Secretary's decision. The Secretary may not deny a petition under this subsection on the basis of inadequate Department of Agriculture resources at the time of the review.

SEC. 504. REQUIREMENTS FOR DOMESTIC AGRICULTURAL AND FORESTRY PRACTICES.

(a) METHODOLOGIES.—

(1) IN GENERAL; CONDITION.—In promulgating regulations under section 502, the Secretary shall establish methodologies for domestic agricultural and forestry practices listed under section 503, if the Secretary determines that methodologies can be established for such practices that meet each of the requirements of this section. The Secretary shall only issue offset credits under this title pursuant to promulgated methodologies applicable to the offset practice that avoided or reduced greenhouse gas emissions or sequestered greenhouse gases.

(2) SPECIFIED METHODOLOGIES.—The Secretary shall establish the following methodologies under this section:

(A) ACTIVITY BASELINES.—A standardized methodology for establishing activity baselines for an offset practice of that type. The Secretary shall set activity baselines to reflect a conservative estimate of performance or activities for the relevant type of practice (excluding changes in performance or activities due to the availability of offset credits) such that the baseline provides an adequate margin of safety to ensure the environmental integrity of offset credits calculated in reference to such baseline.

(B) ADDITIONALITY.—A standardized methodology for determining the additionality of greenhouse gas emissions reduction or avoidance, or greenhouse gas sequestration, achieved by an offset practice of that type. Such methodology shall ensure, at a minimum, that any greenhouse gas emission reduction or avoidance, or any greenhouse gas sequestration, is considered additional only to the extent that it results from activities that—

(i) are not required by existing government regulations, as determined by the Secretary;

(ii) were not commenced prior to January 1, 2009, except in the case of—

(I) offset project activities that commenced after January 1, 2001, and were registered as of the date of enactment of this title under an offset program with respect to which an affirmative determination has been made under section 740 of the Clean Air Act; or

(II) activities that are readily reversible, with respect to which the Secretary may set an alternative earlier date under this subparagraph that is not earlier than January 1, 2001, where the Secretary determines that setting such an alternative date may produce an environmental benefit by removing an incentive to cease and then reinitiate activities that began prior to January 1, 2009; and

(iii) exceed the applicable activity baseline established under paragraph (2).

(C) QUANTIFICATION METHODS.—A standardized methodology for determining the extent to which greenhouse gas emission reductions or avoidance, or greenhouse gas sequestration, achieved by an offset practice of that type exceeded a relevant activity baseline, including methods for monitoring and accounting for uncertainty.

(D) LEAKAGE.—A standardized methodology for accounting for and mitigating potential leakage, if any, from an offset practice of that type, taking uncertainty into account, excluding international indirect land use changes unless a positive determination is made under section 211(o)(13)(C)(iii) of the Clean Air Act.

(b) SPECIAL CONSIDERATIONS.—

(1) EXISTING OFFSET PRACTICES.—In establishing the methodologies under subsection (a), the Secretary shall give due consideration to methodologies for offset practices existing as of the date of the enactment of this title.

(2) CERTAIN FACTORS.—As part of the methodologies established under subsection (a), the Secretary shall establish a formula that takes into account the components of the practice, the characteristics of the land on which the practice is applied, the crop produced, and such other factors as determined appropriate by the Secretary.

(c) ACCOUNTING FOR REVERSALS.—

(1) IN GENERAL.—Except as provided in subsection (d) with respect to issuance of a term offset credit, for each type of practice listed under section 503, the Secretary shall establish requirements to account for and address reversals, including—

(A) a requirement to report any reversal with respect to an offset practice for which offset credits have been issued under this title;

(B) provisions to require emission allowances or offset credits to be held in amounts to fully compensate for greenhouse gas emissions attributable to reversals, and to assign responsibility for holding such emission allowances; and

(C) any other provisions that the Secretary determines to be necessary to account for and address reversals.

(2) MECHANISMS.—

(A) IN GENERAL.—The Secretary shall prescribe mechanisms to ensure that any sequestration of greenhouse gases, with respect to which an offset credit is issued under this title, results in a permanent net increase in sequestration of greenhouse gases, and that full account is taken of any actual or potential reversal of such sequestration, with an adequate margin of safety.

(B) SPECIFIC MECHANISMS.—The Secretary shall make available one or more of the following mechanisms to meet the requirements of this paragraph:

(i) An offsets reserve, pursuant to paragraph (3).

(ii) Insurance that provides for purchase and provision to the Secretary for retirement of a quantity of offset credits or emission allowances equal in number to the tons of carbon dioxide equivalents of greenhouse gas emissions released due to reversal.

(iii) Another mechanism if the Secretary determines it is necessary to satisfy the requirements of this title, taking into account whether the reversal was intentional or unintentional.

(3) OFFSETS RESERVE.—

(A) IN GENERAL.—An offsets reserve referred to in paragraph (2)(B)(i) is a program under which, before issuance of offset credits under this title, the Secretary shall—

(i) subtract and reserve from the quantity to be issued a quantity of offset credits based on the risk of reversal;

(ii) hold those reserved offset credits in the offsets reserve; and

(iii) register the holding of the reserved offset credits in an offset registry.

(B) PRACTICE REVERSAL.—

(i) IN GENERAL.—If a reversal has occurred with respect to an offset practice within an offset project, for which offset credits are reserved under this paragraph, the Secretary shall retire offset credits from the offsets reserve to fully account for the tons of carbon dioxide equivalent that are no longer sequestered.

(ii) INTENTIONAL REVERSALS.—If the Secretary determines that a reversal was intentional, the offset practice developer for the relevant offset practice shall place into the offsets reserve a quantity of offset credits, or combination of offset credits and emission allowances, equal in number to the number of reserve offset credits that were retired pursuant to clause (i).

(iii) UNINTENTIONAL REVERSALS.—If the Secretary determines that a reversal was unintentional, the offset project developer for the relevant offset project shall place into the offsets reserve a quantity of offset credits, or combination of offset credits and emission allowances, equal in number to half the number of offset credits that were reserved for that offset project, or half the number of reserve offset credits that were canceled due to the reversal pursuant to clause (i), whichever is less, except that the Secretary may lower this amount based on undue hardship in the event of a catastrophic occurrence.

(C) USE OF RESERVED OFFSET CREDITS.—Offset credits placed into the offsets reserve under this paragraph may not be used to comply with section 722 of the Clean Air Act.

(d) TERM OFFSET CREDITS.—

(1) APPLICABILITY.—With respect to a practice listed under section 503 that sequesters greenhouse gases and has a crediting period of no more than five years, the Secretary may address reversals pursuant to this subsection in lieu of permanently accounting for reversals pursuant to subsection (c).

(2) ACCOUNTING FOR REVERSALS.—For such practices or projects implementing such practices, the Secretary shall require only reversals that occur during the crediting period to be accounted for and addressed pursuant to subsection (c).

(3) CREDITS ISSUED.—For practices or projects regulated pursuant to paragraph (2), the Secretary shall issue under section 507 a term offset credit, in lieu of an offset credit, for each ton of carbon dioxide equivalent that has been sequestered.

(e) CREDITING PERIODS.—

(1) IN GENERAL.—For each offset practice type within an offset project, the Secretary shall specify a crediting period, and establish provisions for reenrollment for a subsequent crediting period, in accordance with this subsection.

(2) DURATION.—The crediting period shall have a term of up to—

(A) 5 years for agricultural sequestration practices;

(B) 20 years for forestry sequestration practices; and

(C) 10 years for other practice types that reduce or avoid greenhouse gas emissions or sequester greenhouse gases.

(3) ELIGIBILITY.—An offset practice, within an offset project, shall—

(A) be eligible to generate offset credits under this title only during the crediting period of the offset practice; and

(B) remain eligible to generate offset credits, only during the crediting period, subject to the methodologies and practice type eligibility list that applied as of the date of the project approval.

(4) REENROLLMENT FOR SUBSEQUENT CREDITING PERIOD.—

(A) REENROLLMENT AUTHORIZED; TIME FOR REENROLLMENT.—An offset project developer may reenroll for a subsequent crediting period, to commence after termination of the current crediting period, subject to the methodologies and practice type eligibility list in effect at the time of reenrollment. Reenrollment may not occur more than 18 months before the end of the crediting period then in effect.

(B) LIMITATION.—The Secretary may limit the number of subsequent crediting periods available for a particular practice type.

(f) ENVIRONMENTAL INTEGRITY.—In establishing the requirements under this section, the Secretary shall apply conservative assumptions or methods to ensure the environmental integrity of the cap established under section 703 of the Clean Air Act is not compromised.

SEC. 505. PROJECT PLAN SUBMISSION AND APPROVAL.

(a) PROJECT PLAN REQUIRED.—An offset project developer shall submit to the Secretary an offset project plan for approval.

(b) REQUIREMENTS.—As part of the regulations promulgated under this title, the Secretary shall include provisions for, and shall specify, the required components of an offset project plan, including—

(1) designation of an offset project developer;

(2) a list and schedule of the practices to be implemented;

(3) any other information that the Secretary considers to be necessary—

(A) to determine whether the offset practice, within the offset project, is eligible for issuance of offset credits under regulations promulgated under this title; and

(B) to achieve the purposes of this title.

(c) TIME FOR CONSIDERATION; NOTIFICATION.—Not later than 90 days after receiving a complete offset project plan under subsection (a), the Secretary shall—

(1) approve the plan in writing and include an estimate of the offset project credits that will be earned if the plan is implemented, subject to verification of all project-specific variables; or

(2) if the plan is denied, provide the reasons for denial in writing.

(d) APPEAL.—The Secretary shall establish procedures for appeal and review of determinations made under this section.

(e) RESUBMISSION.—After an offset project plan is approved, the offset project developer shall not be required to resubmit a project plan during the crediting period.

SEC. 506. VERIFICATION OF OFFSET PRACTICES.

(a) IN GENERAL.—As part of the regulations promulgated under this title, the Secretary shall establish requirements to verify—

(1) that offset practices in an approved offset project plan have been implemented; and

(2) the quantity of greenhouse gas emission reductions or avoidance, or sequestration of greenhouse gases, resulting from an offset practice and project.

(b) VERIFICATION REPORTS.—

(1) IN GENERAL.—The regulations described in subsection (a) shall require an offset project developer to submit a report, prepared by a third-party verifier accredited under subsection (c).

(2) REQUIREMENTS.—The Secretary shall specify the components of a verification report required under paragraph (1), including—

(A) the name and contact information for the offset project developer;

(B) a certification that the project plan has been implemented;

(C) the quantity of greenhouse gases reduced, avoided, or sequestered;

(D) a certification establishing that the conflict of interest requirements in the regulations promulgated under this title have been complied with;

(E) any other information that the Secretary requires to determine the quantity of greenhouse gas emission reduction or avoidance, or sequestration of greenhouse gases, resulting from the offset practice and project; and

(F) any other information that the Secretary considers to be necessary to achieve the purposes of this title.

(c) VERIFIER ACCREDITATION.—

(1) IN GENERAL.—As part of the regulations promulgated under this title, the Secretary shall establish a process and requirements for periodic accreditation of third-party verifiers for offset credits under this program to ensure that those verifiers are professionally qualified and have no conflicts of interest.

(2) PUBLIC ACCESSIBILITY.—Each verifier meeting the requirements for accreditation in accordance with this subsection shall be listed in a publicly accessible database, which shall be maintained and updated by the Secretary.

SEC. 507. CERTIFICATION OF OFFSET CREDITS.

(a) DETERMINATION AND NOTIFICATION.—Not later than 90 days after receiving a complete verification report, the Secretary shall—

(1) make a determination of the quantity of greenhouse gas emissions that have been reduced or avoided, or greenhouse gases that have been sequestered, by the offset practice in an approved and verified offset project plan; and

(2) notify the offset project developer in writing of the determination.

(b) ISSUANCE OF OFFSET CREDITS.—The Secretary shall issue 1 offset credit to an offset project developer for each ton of carbon dioxide equivalent that the Secretary determines has been reduced, avoided, or sequestered during the crediting period. Offset credits may be issued only for greenhouse gas emissions reduced, avoided, or sequestered after January 1, 2009.

(c) APPEAL.—The Secretary shall establish procedures for appeal and review of determinations made under subsection (a).

(d) TIMING.—Offset credits meeting the criteria described in subsection (b) shall be issued by the Secretary not later than 14 days after the date on which the Secretary makes a determination under subsection (a).

(e) REGISTRATION.—The Secretary shall obtain from the Administrator a unique serial number to allow for the registration of each offset credit to be issued under this title.

SEC. 508. OWNERSHIP AND TRANSFER OF OFFSET CREDITS.

(a) OWNERSHIP.—Initial ownership of an offset credit shall lie with the offset project developer, unless otherwise specified in a legally binding contract or agreement.

(b) TRANSFERABILITY.—An offset credit issued under this title may be sold, traded, or transferred, unless the offset credit has expired or been retired.

SEC. 509. PROGRAM REVIEW AND REVISION.

At least once every 5 years, the Secretary shall review and, based on new or updated information and taking into consideration the recommendations of the Advisory Board, update and revise—

(1) the list of eligible practice types established under section 503;

(2) the methodologies established, including specific activity baselines, under section 504(a);

(3) the reversal requirements and mechanisms established or prescribed under subsections (c) and (d) of section 504;

(4) measures to improve the accountability of the offsets program; and

(5) any other requirements established under this title to ensure the environmental integrity and effective operation of this title.

SEC. 510. ENVIRONMENTAL CONSIDERATIONS.

If the Secretary lists forestry practices as eligible offset practice types under section 503, the Secretary, in consultation with appropriate Federal agencies, shall promulgate regulations for the selection and use of species in forestry and other relevant land management-related offset practices—

(1) to ensure that native species are given primary consideration in such practices;

(2) to encourage the conservation of biological diversity in such practices;

(3) to prohibit the use of federally designated or State-designated noxious weeds;

(4) to prohibit the use of a species listed by a regional or State invasive plant authority within the applicable region or State; and

(5) in accordance with widely accepted, environmentally sustainable forestry practices.

SEC. 511. AUDITS.

(a) AUDITS REQUIRED.—The Secretary shall conduct, on an annual basis, random audits of offset projects, offset credits, and the practices of third-party verifiers. At a minimum, the Secretary shall conduct audits each year for a representative sample of practice types and geographical areas.

(b) ADDITIONAL AUTHORITY.—Nothing in this section prevents the Secretary from conducting any audit the Secretary considers to be necessary.

Subtitle B—USDA Greenhouse Gas Emission Reduction and Sequestration Advisory Committee

SEC. 531. ESTABLISHMENT OF USDA GREENHOUSE GAS EMISSION REDUCTION AND SEQUESTRATION ADVISORY COMMITTEE.

Section 1245 of the Food Security Act of 1985 (16 U.S.C. 3854), as added by section 2709 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 1809), is amended by adding at the end the following new subsection:

"(f) USDA GREENHOUSE GAS EMISSION REDUCTION AND SEQUESTRATION ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—Not later than 30 days after the date of the enactment of the American Clean Energy and Security Act of 2009, the Secretary shall establish an independent advisory committee, to be known as the 'USDA Greenhouse Gas Emission Reduction and Sequestration Advisory Committee', to provide scientific and technical advice on establishing, implementing, and ensuring the overall environmental integrity of an offset program for domestic agricultural and forestry practices that reduce or avoid greenhouse gas emissions, or sequester greenhouse gases.

"(2) MEMBERSHIP.—The Advisory Committee shall be comprised of nine members, including a chairperson and vice-chairperson, appointed by the Secretary. Each member shall be qualified by education, training, and experience to evaluate scientific and technical information for domestic agricultural and forestry offset practices that reduce or avoid greenhouse gas emissions or sequester greenhouse gases.

"(3) TERMS.—Terms shall be 3 years in length, except for the initial terms, which may be up to 5 years in length to allow staggered terms. Members may be reappointed only once for an additional 3-year term, and such term may follow directly after a first term.

"(4) DUTIES.—The Advisory Committee shall—

"(A) provide options and recommendations, not later than 180 days after the date of the enactment of the American Clean Energy and Security Act of 2009, to the Secretary regarding the establishment of methodologies as described in section 504 of such Act, taking into account relevant scientific information, including—

"(i) the availability of representative data for use in developing an activity baseline for a land area, forest, soil, industry sector, and facility type;

"(ii) the potential for accurate quanitification of greenhouse gas reduction, or sequestration for an offset practice type;

"(iii) the potential level of scientific and measurement uncertainty associated with an offset practice type; and

"(iv) the use of practice methodologies that account for common practice or other direct comparisons within a relevant land area, industry sector, forest, soil, or facility type;

"(B) make available to the Secretary options and recommendations for the program as a whole and on offset methodologies for each practice type that should be considered under regulations promulgated pursuant to section 504 of the American Clean Energy and Security Act of 2009, including methodologies to address the issues of additionality, activity baselines, measurement, leakage, including the application of sector specific leakage factors, uncertainty, permanence, and environmental integrity;

"(C) make available to the Secretary advice and comment on areas where further knowledge is required to appraise the adequacy of existing, revised, or proposed methodologies and describe the research efforts necessary to provide the required information;

"(D) make available to the Secretary advice and comments on other ways to improve or safeguard the environmental integrity of the offset practice types listed under section 503 of the American Clean Energy and Security Act of 2009; and

"(E) provide options and recommendations regarding new practice types.

"(5) SCIENTIFIC REVIEW OF OFFSET PROGRAM.—Not later than January 1, 2017, and at 5-year intervals thereafter, the Advisory Committee shall—

"(A) submit to the Secretary and make available to the public an analysis of relevant scientific and technical information regarding agricultural and forestry offset practices that reduce or avoid greenhouse gas emissions or sequester greenhouse gases;

"(B) review approved and potential practice types, methodologies, scientific studies, offset project monitoring, offset project verification reports, reporting of reversals, audits related to the offset program, and other relevant information needed to evaluate the offset program;

"(C) evaluate the net emission effects of implemented offset projects; and

"(D) recommend changes to offset methodologies, procedures, practice types, or the overall program to ensure that—

"(i) the offset practices result in reduced or avoided greenhouse gas emissions or sequestration of greenhouse gases;

"(ii) the offset credits issued by the Secretary do not compromise the integrity of the annual emissions reductions established under section 703 of the Clean Air Act; and

"(iii) the offset program avoids or minimizes adverse affects to human health and the environment.

"(6) COORDINATION.—To avoid duplication, the Advisory Committee shall coordinate its activities with those of any other Federal advisory committees working in related areas, and shall to the maximum extent possible use research data and services of the research, education, extension agencies of the Department of Agriculture.

"(7) CONSULTATION.—On a periodic basis, the Advisory Committee shall consult with, and be informed by the views of, the Offsets Integrity Advisory Board established under section 731 of the Clean Air Act.

"(8) MEETING.—The Advisory Committee shall meet on at least a quarterly basis each year.

"(9) ADMINISTRATIVE SUPPORT AND FUNDING.—The Secretary may provide such administrative and funding support as necessary to enable the Advisory Committee to carry out its duties under this section.

"(10) REPORT.—For each fiscal year, the Secretary shall submit to Congress a report on—

"(A) the status and progress on the offset practices;

"(B) the general status of cooperation and research and development; and

"(C) the plans for addressing future issues and concerns.".

Subtitle C—Miscellaneous

SEC. 551. INTERNATIONAL INDIRECT LAND USE CHANGES.

Section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) is amended by adding at the end the following

"(13) INTERNATIONAL INDIRECT LAND USE CHANGES.—

"(A) EXCLUSION FROM REGULATORY REQUIREMENTS REGARDING LIFECYCLE GREENHOUSE GAS EMISSIONS.—Notwithstanding the definition of 'lifecycle greenhouse gas emissions' in paragraph (1)(H), for purposes of determining whether the fuel meets a definition in paragraph (1) or complies with paragraph (2)(A)(i), the Administrator shall exclude emissions from indirect land use changes outside the renewable fuel's feedstock's country of origin.

"(B) NATIONAL ACADEMIES OF SCIENCE REPORT.—(i) Not later than 6 months after the date of enactment of this

paragraph, the Administrator and the Secretary of Agriculture shall jointly arrange for the National Academies of Science to review and report on specified issues related to indirect greenhouse gas emissions related to transportation fuels.

"(ii) The report shall evaluate and report on whether there are economic and environmental models and methodologies that individually, or as a system, can project with reliability, predictability, and confidence—

"(I) for purposes of determining whether the fuel meets a definition in paragraph (1) or complies with paragraph (2)(A)(i), indirect land use changes that are related to the production of renewable fuels and that may occur outside the country in which the feedstocks are grown, and the impacts of these changes on greenhouse gas emissions; and

"(II) indirect effects, both domestic and international, related to the production and importation of non-renewable transportation fuels that have significant greenhouse gas emissions, and the impact of these effects on greenhouse gas emissions.

"(iii) The report shall include a review and assessment of all pertinent scientific studies, methodologies and data, shall evaluate potential methodologies for calculating such emissions (including an evaluation of methods for annualizing emissions associated with forest degradation or land conversion), and shall make appropriate recommendations. The recommendations shall address indirect effects, both domestic and international, related to the production and importation of non-renewable transportation fuels that have significant greenhouse gas emissions. The report shall use appropriate validation procedures, including sensitivity analyses, of how results change as assumptions change. The evaluation shall include for a model, a methodology, or a system of models—

"(I) an assessment of how reliably the models, methodologies, or systems track actual outcomes over historical periods using available historical data; and

"(II) an assessment of how reliably the models, methodologies or systems will project future outcomes.

"(iv) The report shall be publicly available and shall include sufficient information and data such that economists and other scientists with relevant expertise that are not on the National Academies of Science panel can fully evaluate the conclusions of the report.

"(v) The report shall be completed within three years of the date of enactment of this paragraph.

"(C) DETERMINATION.—(i) The Administrator and the Secretary of Agriculture shall, after notice and an opportunity for public comment, determine whether, for purposes of determining compliance with the percent reductions in lifecycle greenhouse gas emissions specified in paragraph (1) for various renewable fuels, scientifically valid models and methodologies exist to project indirect land use changes that are related to the production of re-

newable fuels and that occur outside the country in which the feedstocks are grown, and the impact of these changes on greenhouse gas emissions.

"(ii) The determination shall take into account the findings and recommendations of the report required under subparagraph (B), as well as other available scientific, economic, and other relevant information. The Administrator and the Secretary may also consider methods used by the Environmental Protection Agency, the Department of Agriculture, and other Federal agencies to assess or guide their related policies.

"(iii) The Administrator and the Secretary of Agriculture shall publish a proposed determination not later than 4 years after date of enactment of this paragraph, and shall publish a final determination not later than 5 years after date of enactment of this paragraph. An explanation and justification of the determination shall be included in the proposed and final actions, together with a response to comments received.

"(D) RESPONSE TO DETERMINATION.—(i) In the event of a positive determination under subparagraph (C), the Administrator and the Secretary of Agriculture shall, after notice and an opportunity for public comment, by the same date jointly establish a methodology (or methodologies) to calculate greenhouse gas emissions from indirect land use changes that are attributable to the production of renewable fuels and that occur outside the country in which feedstocks are grown for purposes of calculating a renewable fuel's lifecycle greenhouse gas emissions to determine whether the fuel meets a definition in paragraph (1) or complies with paragraph (2)(A)(i). The exclusion in subparagraph (A) shall end, and the Administrator shall issue a regulation by the same date that shall include emissions from indirect land use changes outside the renewable fuel's feedstock's country of origin for purposes of calculating a renewable fuel's lifecycle greenhouse gas emissions to determine whether the fuel meets a definition in paragraph (1) or complies with paragraph (2)(A)(i) for renewable fuels sold in the calendar year following the year of the positive determination. The effective date of the regulation shall be six years after the date of enactment of this paragraph.

"(ii) A negative determination under subparagraph (C) shall include a statement of the basis for the determination.

"(E) ACCOUNTABILITY.—The joint duties and actions of the Administrator and the Secretary of Agriculture shall be subject to sections 304 and 307 of this Act as if they were the duties and actions of the Administrator alone.".

SEC. 552. BIOMASS-BASED DIESEL.

Section 211(o)(2)(A) of the Clean Air Act (42 U.S.C. 7545(o)(2)(A)) is amended by adding at the end the following new clause:

"(v) GRANDFATHERING BIOMASS-BASED DIESEL.—The Administrator shall promulgate regulations exempting from the lifecycle greenhouse gas requirements in subparagraphs (B) and (D) of paragraph (1) up to the

greater of 1 billion gallons or the volume mandate adopted pursuant to subparagraph (B)(ii) of biomass-based diesel annually from facilities that commenced construction before the date of enactment of the Energy Independence and Security Act of 2007.".

SEC. 553. MODIFICATION OF DEFINITION OF RENEWABLE BIOMASS.

(a) NATIONAL ACADEMY OF SCIENCES REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the Federal Energy Regulatory Commission shall jointly arrange for the National Academy of Sciences to evaluate how sources of renewable biomass contribute to the goals of increasing America's energy independence, protecting the environment, and reducing global warming pollution.

(b) MODIFICATION.—

(1) EPA MODIFICATION AUTHORITY.—After reviewing the report required by subsection (a), the Administrator of the Environmental Protection Agency, in concurrence with the Secretary of Agriculture, may, by regulation and after public notice and comment, modify the non-Federal lands portion of the definition of "renewable biomass" in sections 211(o)(1)(I) and 700 of the Clean Air Act in order to advance the goals of increasing America's energy independence, protecting the environment, and reducing global warming pollution.

(2) FERC MODIFICATION AUTHORITY.—After reviewing the report required by subsection (a), the Federal Energy Regulatory Commission, in concurrence with the Secretary of Agriculture, may, by regulation and after public notice and comment, modify the non-Federal lands portion of the definition of "renewable biomass" in section 610 of the Public Utility Regulatory Policies Act of 1978 in order to advance the goals of increasing America's energy independence, protecting the environment, and reducing global warming pollution.

(c) FEDERAL LANDS.—

(1) SCIENTIFIC REVIEW.—The Secretary of the Interior, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency shall conduct a joint scientific review, within one year after the date of enactment of this Act, to evaluate how sources of biomass from Federal lands could contribute to the goals of increasing America's energy independence, protecting the environment, and reducing global warming pollution.

(2) MODIFICATION AUTHORITY.—Based on the scientific review, the agencies may, by rule, modify the definition of "renewable biomass" from Federal lands in sections 211(o)(1)(I) and 700 of the Clean Air Act and section 610 of the Public Utility Regulatory Policies Act of 1978 as appropriate to advance the goals of increasing America's energy independence, protecting the environment, and reducing global warming pollution.

PART B—TEXT OF THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO BE MADE IN ORDER

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "New Manhattan Project for Energy Independence".

SEC. 2. DEFINITIONS.

In this Act—

(1) COMMISSION.—The term "Commission" means the Commission established under section 7.

(2) RESEARCH.—The term "research" includes research on the technologies, materials, and manufacturing processes required to achieve the goals described in section 3.

SEC. 3. GOALS.

(a) IN GENERAL.—The purpose of this Act is to enable the achievement of each of the following goals:

(1) VEHICLE FUEL EFFICIENCIES AND ALTERNATIVE FUEL SOURCES.—Development and manufacturing of a plug-in hybrid vehicle, alternative fuel vehicle, electric vehicle, hydrogen fuel cell vehicle, or other alternative technology vehicle—

(A) that is not more than 10 percent more expensive than a comparable model vehicle of the same model year;

(B) with—

(i) equal acceleration, horsepower, and top speed performance; and

(ii) not more than 20 percent reduction in cargo space,

as compared to a comparable model vehicle of the same model year;

(C) that meets or exceeds Federal safety standards;

(D) that can travel at least 750 miles between refueling; and

(E) in the case of a gasoline powered vehicle, that can travel at least 70 miles per gallon of gasoline.

(2) GREEN BUILDINGS.—Develop and build an energy efficient residential or commercial building that—

(A) uses no more than 50 percent of the energy of the average new building of similar size and type;

(B) costs no more than 15 percent more to construct than the cost of a building of similar size and type; and

(C) can be effectively reproduced in a variety of climate environments found in the United States.

(3) SOLAR POWER.—Construction of a large scale solar thermal power plant or solar photovoltaic power plant capable of generating 300 megawatts or more at a cost of 10 cents or less per kilowatt-hour when all capital and operating expenses are calculated into the cost.

(4) BIOFUELS.—Development and production of a biofuel that, when mass produced, does not exceed 105 percent of the cost for the energy equivalent of unleaded gasoline when all capital and operating expenses are calculated into the cost of the biofuel.

(5) CARBON SEQUESTRATION.—Development and implementation of a carbon capture and storage system for a large scale coal-burning power plant that does not increase operating costs more than 15 percent compared to a baseline design without carbon capture and storage while providing an estimated

chance of carbon dioxide escape no greater than 1 percent over 5,000 years.

(6) NUCLEAR WASTE.—Development of both—

(A) a validated process for remediation of the radioactive waste form so it is no longer harmful to the health or welfare of the environment or individuals for a period to be determined by the Commission, which shall be not less than 5,000 years; and

(B) a model that accounts for all the effects of nuclear waste in that process.

(7) NUCLEAR FUSION.—Development of a sustainable nuclear fusion reaction capable of providing a large-scale (greater than 300 megawatts), sustainable source of electricity for residential, commercial, or government entities.

(b) AMENDMENT OF GOALS.—The Secretary of Energy may amend a goal described in subsection (a) pursuant to a recommendation from the Commission under section 7(b)(5), or on his own initiative, if such amendment serves the purpose of achieving the goal of United States energy independence through the development of technologies that lead to the widespread adoption of improvements that increase energy supply or energy efficiency.

SEC. 4. SUMMIT.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the President shall convene a summit that includes—

(1) the principal advisors and directors of all programs in the Federal Government related to the achievement of the goals described in section 3;

(2) the members of the Commission; and

(3) leading researchers at the Federal laboratories and representatives of private sector partners engaged in the production and manufacturing of technologies necessary to achieve the goals described in section 3.

(b) PURPOSE.—The summit shall be for the purpose of reviewing the progress and promise for each of these technologies, the interrelationship of these technologies to each other, and additional funding resources needed to accelerate the progress of these programs toward achieving the goals described in section 3.

SEC. 5. GRANT PROGRAM.

(a) IN GENERAL.—The Secretary of Energy, in consultation with the Secretary of Defense, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, and other Federal agencies as appropriate, shall carry out a program consisting of a collaborative effort with industry, government, and academia to support research, development, demonstration, and commercial application activities related to achieving the goals described in section 3.

(b) GRANTS.—Such program shall consist of grants to researchers, large and small businesses, National Laboratories, institutions of higher education, or any other qualified applicant, including veterans.

(c) LIMITATION ON AMOUNT.—No grant shall be made under this section in an amount that exceeds 5 percent of the amount author-

ized under section 8(1) for prizes for the achievement of the same goal.

(d) COST SHARING.—The Federal share of the costs of a project for which a grant is made under this section shall not exceed 15 percent.

SEC. 6. PRIZE PROGRAM.

(a) PRIZE AUTHORITY.—

(1) IN GENERAL.—The Secretary of Energy shall carry out a program to competitively award cash prizes in conformity with this section to advance the research, development, demonstration, and commercial application necessary to achieve the goals described in section 3.

(2) ADVERTISING AND SOLICITATION OF COMPETITORS.—

(A) ADVERTISING.—The Secretary shall widely advertise prize competitions under this section to encourage broad participation by researchers, large and small businesses, institutions of higher education, and any other qualified applicants, including veterans.

(B) ANNOUNCEMENT THROUGH FEDERAL REGISTER NOTICE.—The Secretary shall announce each prize competition under this section by publishing a notice in the Federal Register. This notice shall include essential elements of the competition such as the subject of the competition, the duration of the competition, the eligibility requirements for participation in the competition, the process for participants to register for the competition, the amount of the prize, and the criteria for awarding the prize, which shall include, at a minimum, the achievement of one of the goals described in section 3.

(3) ANNOUNCEMENT OF PRIZES.—The Secretary may not issue a notice required by paragraph (2)(B) until all the funds needed to pay out the announced amount of the prize have been appropriated.

(b) PRIZE CATEGORIES.—

(1) CATEGORIES.—The Secretary of Energy shall establish a single prize under this section for each of the goals described in paragraphs (1) through (7) of section 3.

(2) CRITERIA.—In establishing the criteria required by this section, the Secretary—

(A) shall consult with other Federal agencies, including the National Science Foundation; and

(B) may consult with other experts such as private organizations, including professional societies, industry associations, and the National Academy of Sciences and the National Academy of Engineering.

(c) ELIGIBILITY.—To be eligible to win a prize under this section, an individual or entity—

(1) shall have complied with all the requirements in accordance with the Federal Register notice required under subsection (a)(2)(B);

(2) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen of, or an alien lawfully admitted for permanent residence in, the United States; and

(3) shall not be a Federal entity, a Federal employee acting within the scope of his employment, or an employee of a national laboratory acting within the scope of his employment.

(d) AWARD SELECTION.—

(1) IN GENERAL.—The Secretary of Energy shall award prizes under this section on the basis of the criteria published in the notice required under subsection (a)(2)(B), after receiving the recommendations of the Commission under section 7(b)(3).

(2) CONGRESSIONAL NOTIFICATION.—If the Secretary awards a prize under paragraph (1) in a manner that does not conform to the recommendations of the Commission, the Secretary shall transmit a report to the Congress explaining the reasons for such action.

(e) INTELLECTUAL PROPERTY.—The Federal Government shall not, by virtue of offering or awarding a prize under this section, be entitled to any intellectual property rights derived as a consequence of, or direct relation to, the participation by a registered participant in a competition authorized by this section. This subsection shall not be construed to prevent the Federal Government from negotiating a license for the use of intellectual property developed for a prize competition under this section.

(f) LIABILITY.—

(1) WAIVER OF LIABILITY.—The Secretary of Energy may require registered participants to waive claims against the Federal Government (except claims for willful misconduct) for any injury, death, damage, or loss of property, revenue, or profits arising from the registered participants' participation in a competition under this section. The Secretary shall give notice of any waiver required under this paragraph in the notice required by subsection (a)(2)(B).

(2) LIABILITY INSURANCE.—

(A) REQUIREMENTS.—Registered participants in a prize competition under this section shall be required to obtain liability insurance or demonstrate financial responsibility, in amounts determined by the Secretary, for claims by—

(i) a third party for death, bodily injury, or property damage or loss resulting from an activity carried out in connection with participation in a competition under this section; and

(ii) the Federal Government for damage or loss to Government property resulting from such an activity.

(B) FEDERAL GOVERNMENT INSURED.—The Federal Government shall be named as an additional insured under a registered participant's insurance policy required under subparagraph (A) with respect to claims described in clause (i) of that subparagraph, and registered participants shall be required to agree to indemnify the Federal Government against third party claims for damages arising from or related to competition activities under this section.

(g) NONSUBSTITUTION.—The programs created under this section shall not be considered a substitute for Federal research and development programs.

SEC. 7. COMMISSION.

(a) ESTABLISHMENT.—There shall be established the New Manhattan Project Commission on Energy Independence.

(b) FUNCTIONS.—The Commission shall—

(1) not later than 1 year after the date of enactment of this Act, submit to Congress and the President a report containing—

(A) recommendations on steps that must be taken in order for the United States to achieve 50 percent energy independence within 10 years and 100 percent energy independence within 20 years; and

(B) an assessment of the impact of foreign energy dependence on United States national security;

(2) advise the Secretary of Energy on the design and operation of the grant program established under section 5;

(3) make recommendations to the Secretary of Energy on the design and operation, including selection criteria, of the prize program carried out under section 6;

(4) make recommendations to the Secretary of Energy selecting participants who have achieved a goal for which a prize will be awarded under section 6; and

(5) submit recommendations to Congress for any amendments to make the goals described in section 3 more stringent, as appropriate because of changing circumstances, if such amendments serve the purpose of achieving the goal of United States energy independence through the development of technologies that lead to the widespread adoption of improvements that increase energy supply or energy efficiency.

(c) MEMBERSHIP.—The Commission shall be composed of 13 members as follows:

(1) The Under Secretary for Science of the Department of Energy.

(2) The Administrator of the Research and Innovative Technology Administration.

(3) The Director of the National Science Foundation.

(4) The Chairman of the Federal Laboratory Consortium for Technology Transfer.

(5) The President of the National Academy of Sciences.

(6) 2 members appointed by the Speaker of the House of Representatives.

(7) 2 members appointed by the minority leader of the House of Representatives.

(8) 2 members appointed by the majority leader of the Senate.

(9) 2 members appointed by the minority leader of the Senate.

(d) TERMS OF MEMBERSHIP.—Each member of the Commission appointed under subsection (c)(6) through (9) shall be appointed for a term of two years, except that of the members first appointed, one under each of those paragraphs shall be appointed for a term of one year. A member of the Commission may serve after the expiration of the member's term until a successor has taken office.

(e) VACANCIES.—A vacancy in the Commission shall not affect its powers but, in the case of a member appointed under subsection (c)(6) through (9), shall be filled in the same manner as the original appointment was made. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term.

(f) QUORUM.—Seven members of the Commission shall constitute a quorum.

(g) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

(h) COMPENSATION.—(1) Each member of the Commission shall serve without compensation.

(2) While away from their homes or regular places of business in the performance of duties for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(i) STAFF.—Subject to rules prescribed by the Commission, the Commission may appoint personnel as it considers appropriate.

(j) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(k) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(l) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(m) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(n) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Commission, the head of that department or agency shall furnish that information to the Commission.

(o) SUBPOENA POWER.—

(1) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Commission. The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) FAILURE TO OBEY A SUBPOENA.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to a United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas

issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS.—All process of any court to which application is made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.

(p) FEDERAL ADVISORY COMMITTEE ACT.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Energy—

(1) for the period encompassing fiscal years 2010 through 2019—

(A) $500,000,000 for awarding the prize under section 6 for meeting the goal described in section 3(1);

(B) $250,000,000 for awarding the prize under section 6 for meeting the goal described in section 3(2);

(C) $250,000,000 for awarding the prize under section 6 for meeting the goal described in section 3(3);

(D) $1,000,000,000 for awarding the prize under section 6 for meeting the goal described in section 3(4);

(E) $1,000,000,000 for awarding the prize under section 6 for meeting the goal described in section 3(5);

(F) $1,000,000,000 for awarding the prize under section 6 for meeting the goal described in section 3(6);

(G) $10,000,000,000 for awarding the prize under section 6 for meeting the goal described in section 3(7); and

(H) $10,000,000,000 for carrying out the grant program under section 5; and

(2) such sums as may be necessary for carrying out this Act for subsequent fiscal years.

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