

AMENDMENT TO H.R. 2454
OFFERED BY MR. WAXMAN OF CALIFORNIA

Page 14, strike lines 1 through 3 and insert:

1 “(7) CENTRAL PROCUREMENT STATE.—The
2 term ‘central procurement State’ means a State
3 that, as of January 1, 2009, had adopted and imple-
4 mented a legally enforceable mandate that, in lieu of
5 requiring utilities to submit credits or certificates
6 issued based on generation of electricity from (or to
7 purchase or generate electricity from) resources de-
8 fined by the State as renewable, requires retail elec-
9 tric suppliers to collect payments from electricity
10 ratepayers within the State that are used for central
11 procurement, by a State agency or a public benefit
12 corporation established pursuant to State law, of
13 credits or certificates issued based on generation of
14 electricity from resources defined by the State as re-
15 newable.

Page 15, beginning line 8, strike paragraph (11), re-
lating 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:

1 “(16) RENEWABLE BIOMASS.—The term ‘re-
2 newable biomass’ means any of the following:

3 “(A) Materials, pre-commercial thinnings,
4 or removed invasive species from National For-
5 est System land and public lands (as defined in
6 section 103 of the Federal Land Policy and
7 Management Act of 1976 (43 U.S.C. 1702)),
8 including those that are byproducts of preven-
9 tive treatments (such as trees, wood, brush,
10 thinnings, chips, and slash), that are removed
11 as part of a federally recognized timber sale, or
12 that are removed to reduce hazardous fuels, to
13 reduce or contain disease or insect infestation,
14 or to restore ecosystem health, and that are—

15 “(i) not from components of the Na-
16 tional Wilderness Preservation System,
17 Wilderness Study Areas, Inventoried
18 Roadless Areas, old growth stands, late-
19 successional stands (except for dead, se-
20 verely damaged, or badly infested trees),
21 components of the National Landscape
22 Conservation System, National Monu-

1 ments, National Conservation Areas, Des-
2 gnated Primitive Areas, or Wild and Sce-
3 nic Rivers corridors;

4 “ (ii) harvested in environmentally sus-
5 tainable quantities, as determined by the
6 appropriate Federal land manager; and

7 “ (iii) harvested in accordance with
8 Federal and State law, and applicable land
9 management plans.

10 “ (B) Any organic matter that is available
11 on a renewable or recurring basis from non-
12 Federal land or land belonging to an Indian or
13 Indian tribe that is held in trust by the United
14 States or subject to a restriction against alien-
15 ation imposed by the United States, including—

16 “ (i) renewable plant material, includ-
17 ing—

18 “ (I) feed grains;

19 “ (II) other agricultural commod-
20 ities;

21 “ (III) other plants and trees; and

22 “ (IV) algae; and

23 “ (ii) waste material, including—

24 “ (I) crop residue;

1 “(II) other vegetative waste ma-
2 terial (including wood waste and wood
3 residues);
4 “(III) animal waste and byprod-
5 ucts (including fats, oils, greases, and
6 manure);
7 “(IV) construction waste; and
8 “(V) food waste and yard waste.
9 “(C) Residues and byproducts from wood,
10 pulp, or paper products facilities.”.

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

Page 31, line 6, strike “Where” and insert “(A) Ex-
cept as provided in subparagraph (B), where”

Page 32, after line 4, insert:

11 “(B) In the case of a central procurement State
12 that pursuant to subsection (g) has assumed respon-
13 sibility for compliance with the requirements of sub-
14 section (b), the Commission shall issue directly to
15 the State Federal renewable electricity credits for
16 any renewable electricity for which the State, pursu-
17 ant to a mandate described in subsection (a)(7), has
18 centrally procured credits or certificates issued based
19 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:

1 “(4) CENTRAL PROCUREMENT STATES.—
2 “(A) IN GENERAL.—A central procurement
3 State that, pursuant to subsection (g), has as-
4 sumed responsibility for compliance with the re-
5 quirements of subsection (b) shall deposit any
6 alternative compliance payments under this
7 subsection in a unique fund in the State treas-
8 ury created and used solely for this purpose.

1 “(B) REQUIREMENTS.—As a precondition
2 of making alternative compliance payments
3 under this subsection, a central procurement
4 State shall certify to the Commission, in ac-
5 cordance with such requirements as the Com-
6 mission may prescribe, that—

7 “(i) making such payments is the low-
8 est cost alternative to meet the require-
9 ments of subsection (b); and

10 “(ii) moneys used by the State to
11 make such payments are in addition to any
12 spending that the State, and any separate
13 entity charged with administering the
14 State central procurement requirement
15 identified under subsection (a)(7), other-
16 wise collectively would direct to the pur-
17 poses identified in paragraph (3).

18 “(C) USES.—A central procurement State
19 that makes alternative compliance payments
20 under this subsection shall certify to the Com-
21 mission that, in using such payments in accord-
22 ance with paragraph (3), it has, to the extent
23 practicable, maximized the level of deployment
24 of renewable electricity generation (measured in
25 megawatt hours) and electricity savings per dol-

1 lar that are achieved through such expendi-
2 tures.

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:

3 “(g) CENTRAL PROCUREMENT STATES.—

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

12 “(2) DEMONSTRATION OF ELECTRICITY SAVINGS.—If a central procurement State opts to meet
13 any part of the requirements of subsection (b) based
14 on the achievement of demonstrated total annual
15 electricity savings, regardless of whether such State
16 has received delegated authority pursuant to subsection
17 (f)(5), such State shall submit such dem-
18 -

1 onstrated total annual electricity savings to the
2 Commission through an annual report in accordance
3 with requirements prescribed by the Commission by
4 regulation, which shall be of equivalent stringency to
5 those applicable to retail electric suppliers under
6 subsection (f).

7 “(3) NONCOMPLIANCE.—If a central procure-
8 ment State that pursuant to this subsection has as-
9 sumed responsibility for compliance with the require-
10 ments of subsection (b), fails to satisfy the require-
11 ments of subsection (b) or (h) for any year, the
12 State’s assumption of responsibility under this sub-
13 section shall be discontinued immediately, and retail
14 electric suppliers located in such State henceforth
15 shall be directly subject to the requirements of this
16 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:

1 SEC. 103. FEDERAL RENEWABLE ENERGY PURCHASES.

2 (a) REQUIREMENT.—For each of calendar years
3 2012 through 2039, the President shall ensure that, of
4 the total amount of electricity Federal agencies consume
5 in the United States during each calendar year, the fol-
6 lowing 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

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

8 (1) RENEWABLE ELECTRICITY.—The term “re-
9 newable electricity” shall have the meaning given in

1 section 610 of the Public Utility Regulatory Policies
2 Act of 1978 (16 U.S.C. 2601 and following).

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

8 (c) MODIFICATION OF REQUIREMENT.—If the Presi-
9 dent determines that the Federal Government cannot fea-
10 sibly meet the requirement established in subsection (a)
11 in a specific calendar year, the President may, by written
12 order, reduce such requirement for such calendar year to
13 a percentage the President determines the Federal Gov-
14 ernment can feasibly meet.

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

20 (e) CONTRACTS FOR RENEWABLE ENERGY.—(1)
21 Notwithstanding section 501(b)(1)(B) of title 40, United
22 States Code, a contract for the acquisition of electricity
23 generated from a renewable energy resource for the Fed-
24 eral Government may be made for a period of not more
25 than 20 years.

1 (2) Not later than 90 days after the date of enact-
2 ment of this subsection, the Secretary of Energy, through
3 the Federal Energy Management Program, shall publish
4 a standardized renewable energy purchase agreement, set-
5 ting forth commercial terms and conditions, that Federal
6 agencies may use to acquire electricity generated from a
7 renewable energy resource.

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

Page 96, line 8, insert “The limitation in the pre-
ceding 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 “sub-
section (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 pro-
duced in the United States.”.

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

11 **SEC. 126. DEFINITION OF RENEWABLE BIOMASS.**

12 Section 211(o)(1)(I) of the Clean Air Act (42 U.S.C.
13 7545(o)(1)(I)) is amended to read as follows:

1 “(I) RENEWABLE BIOMASS.—The term ‘re-
2 newable biomass’ means any of the following:

3 “(i) Materials, pre-commercial
4 thinnings, or removed invasive species from
5 National Forest System land and public
6 lands (as defined in section 103 of the
7 Federal Land Policy and Management Act
8 of 1976 (43 U.S.C. 1702)), including those
9 that are byproducts of preventive treat-
10 ments (such as trees, wood, brush,
11 thinnings, chips, and slash), that are re-
12 moved as part of a federally recognized
13 timber sale, or that are removed to reduce
14 hazardous fuels, to reduce or contain dis-
15 ease or insect infestation, or to restore eco-
16 system health, and that are—

17 “(I) not from components of the
18 National Wilderness Preservation Sys-
19 tem, Wilderness Study Areas, Inven-
20 toried Roadless Areas, old growth
21 stands, late-successional stands (ex-
22 cept for dead, severely damaged, or
23 badly infested trees), components of
24 the National Landscape Conservation
25 System, National Monuments, Na-

1 tional Conservation Areas, Designated
2 Primitive Areas, or Wild and Scenic
3 Rivers corridors;

4 “(II) harvested in environ-
5 mentally sustainable quantities, as de-
6 termined by the appropriate Federal
7 land manager; and

8 “(III) harvested in accordance
9 with Federal and State law, and ap-
10 plicable land management plans.

11 “(ii) Any organic matter that is avail-
12 able on a renewable or recurring basis
13 from non-Federal land or land belonging to
14 an Indian or Indian tribe that is held in
15 trust by the United States or subject to a
16 restriction against alienation imposed by
17 the United States, including—

18 “(I) renewable plant material, in-
19 cluding—

20 “(aa) feed grains;

21 “(bb) other agricultural
22 commodities;

23 “(cc) other plants and trees;

24 and

25 “(dd) algae; and

- 1 “(II) waste material, including—
2 “(aa) crop residue;
3 “(bb) other vegetative waste
4 material (including wood waste
5 and wood residues);
6 “(cc) animal waste and by-
7 products (including fats, oils,
8 greases, and manure);
9 “(dd) construction waste;
10 “(ee) food waste and yard
11 waste; and
12 “(ff) the non-fossil biogenic
13 portion of municipal solid waste
14 and construction, demolition, and
15 disaster debris.
16 “(iii) Residues and byproducts from
17 wood, pulp, or paper products facilities.”.

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

- 18 (c) REDUCTION.—The last sentence of section
19 211(o)(7)(D) of the Clean Air Act (42 U.S.C.
20 7545(o)(7)(D)) is amended to read as follows: “For any
21 calendar year in which the Administrator makes such a
22 reduction, the Administrator shall also reduce the applica-
23 ble volume of renewable fuel and advanced biofuels re-

1 quirement established under paragraph (2)(B) by the
2 same volume.”.

Page 128, line 4, strike “; and” and insert a semi-colon.

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

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

3 (4) in section 797, by striking “2011” and in-
4 serting “2016”.

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

5 **SEC. 130. FLEET VEHICLES.**

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

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

10 “(6) REPOWERED OR CONVERTED ALTERNATIVE
11 NATIVE FUELED VEHICLES.—As used in this paragraph,
12 the term ‘repowered or converted alternative
13 fueled vehicle’ includes light-, medium- or heavy-duty
14 motor vehicles that have been modified with an EPA

1 or CARB compliant engine or vehicle or aftermarket
2 system so that the vehicle or engine is capable of op-
3 erating on an alternative fuel.”.

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

6 “(3) Repowered or converted vehicles. Not later
7 than January 1, 2010, the Secretary shall allocate
8 credits to fleets that repower or convert an existing
9 vehicle so that it is capable of operating on an alter-
10 native fuel. In the case of any medium- or heavy-
11 duty vehicle that is repowered or converted so that
12 it is capable of operating on an alternative fuel, the
13 Secretary shall allocate additional credits for such
14 vehicles if he determines that such vehicles displace
15 more petroleum than light duty alternative fueled ve-
16 hicles. Such rules shall also include a requirement
17 that such vehicles remain in the fleet for a period of
18 no less than 2 years in order to continue to qualify
19 for credit. The Secretary also shall extend the flexi-
20 bility afforded in this paragraph to Federal fleets
21 subject to the purchase provisions contained in sec-
22 tion 303 of this Act.”.

1 **SEC. 130A. REPORT ON NATURAL GAS VEHICLE EMISSIONS**
2 **REDUCTIONS.**

3 Within 360 days after the date of enactment of this
4 Act, the Administrator, in consultation with the Secre-
5 taries of Energy and Transportation, and the Adminis-
6 trator of the General Services Administration, and after
7 an examination of available scientific studies or analysis,
8 shall submit to the Congress a report on—

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

15 (2) the contribution that light and heavy duty
16 natural gas vehicles are expected to make from 2010
17 to 2020 in reducing greenhouse gas and criteria pol-
18 lutants under the Clean Air Act based, among other
19 things, on additional Federal incentives for the man-
20 ufacture and deployment of natural gas vehicles pro-
21 vided in this Act, and other Federal legislation; and

22 (3) additional Federal measures, including leg-
23 islation, that could, if implemented, maximize the
24 potential for natural gas used in both stationary and
25 mobile sources to contribute to the reduction of

1 greenhouse gases and criteria pollutants under the
2 Clean Air Act.

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

Page 141, line 13, insert “direct provision of allow-
ances,” 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:

3 **SEC. 151. TRANSMISSION PLANNING AND SITING.**

4 (a) IN GENERAL.—Section 216 of the Federal Power
5 Act (16 U.S.C. 824p) is amended as follows:

6 (1) In subsection (b), in paragraph (5), by
7 striking “; and” and inserting a semicolon, in para-
8 graph (6) by striking the period and inserting “;
9 and” and by adding the following at the end thereof:

10 “(7) the facility is interstate in nature or is an
11 intrastate segment integral to a proposed interstate
12 facility;”.

13 (2) In subsection (k), by inserting at the end
14 the following: “Subsections (a), (b), (c), and (h) of
15 this section shall not apply in the Western inter-
16 connection.”.

1 (3) In subsections (d) and (e), by striking “sub-
2 section (b)” in each place and inserting “subsection
3 (b) or section 216B”, and by striking “permit” and
4 inserting “permit or certificate” in each place it ap-
5 pears.

6 (b) NEW SECTIONS.—The Federal Power Act (16
7 U.S.C. 824p) is amended by inserting the following new
8 sections after section 216:

9 **“SEC. 216A TRANSMISSION PLANNING.**

10 “(a) FEDERAL POLICY FOR TRANSMISSION PLAN-
11 NING.—

12 “(1) OBJECTIVES.—It is the policy of the
13 United States that regional electric grid planning
14 should facilitate the deployment of renewable and
15 other zero-carbon and low-carbon energy sources for
16 generating electricity to reduce greenhouse gas emis-
17 sions while ensuring reliability, reducing congestion,
18 ensuring cyber-security, minimizing environmental
19 harm, and providing for cost-effective electricity
20 services throughout the United States, in addition to
21 serving the objectives stated in section 217(b)(4).

22 “(2) OPTIONS.—In addition to the policy under
23 paragraph (1), it is the policy of the United States
24 that regional electric grid planning to meet these ob-
25 jectives should result from an open, inclusive and

1 transparent process, taking into account all signifi-
2 cant demand-side and supply-side options, including
3 energy efficiency, distributed generation, renewable
4 energy and zero-carbon electricity generation tech-
5 nologies, smart-grid technologies and practices, de-
6 mand response, electricity storage, voltage regulation
7 technologies, high capacity conductors with at least
8 25 percent greater efficiency than traditional ACSR
9 (aluminum stranded conductors steel reinforced)
10 conductors, superconductor technologies, under-
11 ground transmission technologies, and new conven-
12 tional electric transmission capacity and corridors.

13 “(b) PLANNING.—

14 “(1) PLANNING PRINCIPLES.—Not later than 1
15 year after the date of enactment of this section, the
16 Commission shall adopt, after notice and oppor-
17 tunity for comment, national electricity grid plan-
18 ning principles derived from the Federal policy es-
19 tablished under subsection (a) to be applied in ongo-
20 ing and future transmission planning that may im-
21 plicate interstate transmission of electricity.

22 “(2) REGIONAL PLANNING ENTITIES.—Not
23 later than 3 months after the date of adoption by
24 the Commission of national electricity grid planning
25 principles pursuant to paragraph (1), entities that

1 conduct or may conduct transmission planning pur-
2 suant to State, tribal, or Federal law or regulation,
3 including States, Indian tribes, entities designated
4 by States and Indian tribes, Federal Power Mar-
5 keting Administrations, transmission providers, op-
6 erators and owners, regional organizations, and elec-
7 tric utilities, and that are willing to incorporate the
8 national electricity grid planning principles adopted
9 by the Commission in their electric grid planning,
10 shall identify themselves and the regions for which
11 they propose to develop plans to the Commission.

12 “(3) COORDINATION OF REGIONAL PLANNING
13 ENTITIES.—The Commission shall encourage re-
14 gional planning entities described under paragraph
15 (2) to cooperate and coordinate across regions and
16 to harmonize regional electric grid planning with
17 planning in adjacent or overlapping jurisdictions to
18 the maximum extent feasible. The Commission shall
19 work with States, Indian tribes, Federal land man-
20 agement agencies, State energy, environment, nat-
21 ural resources, and land management agencies and
22 commissions, Federal power marketing administra-
23 tions, electric utilities, transmission providers, load-
24 serving entities, transmission operators, regional
25 transmission organizations, independent system op-

1 erators, and other organizations to resolve any con-
2 flict or competition among proposed planning enti-
3 ties in order to build consensus and promote the
4 Federal policy established under subsection (a). The
5 Commission shall seek to ensure that planning that
6 is consistent with the national electricity grid plan-
7 ning principles adopted pursuant to paragraph (1) is
8 conducted in all regions of the United States and
9 the territories, but in a manner that, to the extent
10 feasible, avoids uncoordinated planning by more
11 than one planning entity for the same area.

12 “(4) RELATION TO EXISTING PLANNING POL-
13 ICY.—In implementing the Federal policy established
14 under subsection (a), the Commission shall

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

18 “(B) coordinate with the Secretary of En-
19 ergy in providing to the regional planning enti-
20 ties an annual summary of national energy pol-
21 icy priorities and goals;

22 “(C) coordinate with corridor designation
23 and planning functions carried out pursuant to
24 section 216 by the Secretary of Energy, who
25 shall provide financial support from available

1 funds to support the purposes of this section;
2 and

3 “(D) coordinate with the Secretaries of the
4 Interior and Agriculture and Indian tribes in
5 carrying out the Secretaries’ or tribal govern-
6 ments’ existing responsibilities for the planning
7 or siting of transmission facilities on Federal or
8 tribal lands, consistent with law, policy, and
9 regulations relating to the management of fed-
10 eral public lands .

11 “(5) ASSISTANCE.—

12 “(A) IN GENERAL.—The Commission shall
13 provide support to and may participate if in-
14 vited to do so in the regional grid planning
15 processes conducted by regional planning enti-
16 ties. The Secretary of Energy and the Commis-
17 sion may provide planning resources and assist-
18 ance as required or as requested by regional
19 planning entities, including system data, cost
20 information, system analysis, technical exper-
21 tise, modeling support, dispute resolution serv-
22 ices, and other assistance to regional planning
23 entities, as appropriate.

1 “(B) AUTHORIZATION.—There are author-
2 ized to be appropriated such sums as may be
3 necessary to carry out this paragraph.

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

9 “(7) SUBMISSION OF PLANS.—The Commission
10 shall require regional planning entities to submit ini-
11 tial regional electric grid plans to the Commission
12 not later than 18 months after the date the Commis-
13 sion promulgates national electricity grid planning
14 principles pursuant to paragraph (1), with updates
15 to such plans not less than every 3 years thereafter.
16 The Commission shall review such plans for consist-
17 ency with the national grid planning principles and
18 may return a plan to one or more planning entities
19 for further consideration, along with the Commis-
20 sion’s own recommendations for resolution of any
21 conflict or for improvement.

22 “(8) INTEGRATION OF PLANS.—Regional elec-
23 tric grid plans should, in general, be developed from
24 sub-regional requirements and plans, including plan-
25 ning input reflecting individual utility service areas.

1 Regional plans may then in turn be combined into
2 larger regional plans, up to interconnection-wide and
3 national plans, as appropriate and necessary as de-
4 termined by the Commission. In no case shall a
5 multi-regional plan impose inclusion of a facility on
6 a region that has submitted a valid plan that, after
7 efforts to resolve the conflict, does not include such
8 facility. To the extent practicable, all plans sub-
9 mitted to the Commission shall be public documents
10 and available on the Commission's Web site.

11 “(9) MULTI-REGIONAL MEETINGS.—As regional
12 grid plans are submitted to the Commission, the
13 Commission may convene multi-regional meetings to
14 discuss regional grid plan consistency and integra-
15 tion, including requirements for multi-regional
16 projects, and to resolve any conflicts that emerge
17 from such multi-regional projects. The Commission
18 shall provide its recommendations for eliminating
19 any inter-regional conflicts.

20 “(10) REPORT TO CONGRESS.—Not later than
21 3 years after the date of enactment of this section
22 and each 3 years thereafter, the Commission shall
23 provide a report to Congress containing the results
24 of the regional grid planning process, including sum-
25 maries of the adopted regional plans and the extent

1 to which the Federal policy objectives in subsection
2 (a) have been successfully achieved. The Commission
3 shall provide an electronic version of its report on its
4 website with links to all regional and sub-regional
5 plans taken into account. The Commission shall note
6 and provide its recommended resolution for any con-
7 flicts not resolved during the planning process. The
8 Commission shall make any recommendations to
9 Congress on the appropriate Federal role or support
10 required to address the needs of the electric grid, in-
11 cluding recommendations for addressing any needs
12 that are beyond the reach of existing State, tribal,
13 and Federal authority.

14 **“SEC. 216B. SITING AND CONSTRUCTION IN THE WESTERN**
15 **INTERCONNECTION.**

16 “(a) **APPLICABILITY.**—This section applies only to
17 States located in the Western Interconnection and does
18 not apply to States located in the Eastern Interconnection,
19 to the States of Alaska or Hawaii, or to ERCOT.

20 “(b) **CERTIFICATE OF PUBLIC CONVENIENCE AND**
21 **NECESSITY.**—The Commission may, after notice and op-
22 portunity for hearing, issue a certificate of public conven-
23 ience and necessity for the construction or modification
24 of a transmission facility if the Commission finds that—

1 “(1) the facility was identified and included in
2 one or more relevant and final regional or inter-
3 connection-wide electric grid plans submitted to the
4 Commission pursuant to subsection (b) of 216A;

5 “(2) any conflict among regional electric grid
6 plans concerning the need for the facility was re-
7 solved;

8 “(3) such relevant regional electric grid plans
9 are consistent with the national grid planning prin-
10 ciples adopted by the Commission pursuant to sub-
11 section (b);

12 “(4) the facility was identified as needed in sig-
13 nificant measure to meet demand for renewable en-
14 ergy in such plans;

15 “(5) the facility is a multistate facility;

16 “(6) the developer of such facility filed a com-
17 plete application seeking approval for the siting of
18 the facility with a state commission or other entity
19 that has authority to approve the siting of the facil-
20 ity;

21 “(7) a State commission or other entity that
22 has authority to approve the siting of the facility—

23 “(A) did not issue a decision on an appli-
24 cation seeking approval for the siting of the fa-

1 cility within 1 year after the date the applicant
2 submitted a completed application to the State;

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

5 “(C) authorized the siting of the facility
6 subject to conditions that unreasonably inter-
7 fere with the development of the facility; and

8 “(8) the siting of the facility can be accom-
9 plished in a manner consistent with the Federal pol-
10 icy established in subsection (a) of section 216A and
11 the national grid planning principles adopted by the
12 Commission pursuant to subsection (b) of section
13 216A.

14 “(c) STATE RECOMMENDATIONS ON RESOURCE PRO-
15 TECTION.—In issuing a final certificate of public conven-
16 ience and necessity pursuant to subsection (b), the Com-
17 mission shall—

18 “(1) consider any siting constraints and mitiga-
19 tion measures based on habitat protection, health
20 and safety considerations, environmental consider-
21 ations, or cultural site protection identified by rel-
22 evant State or local authorities; and

23 “(2) incorporate those identified siting con-
24 straints or mitigation measures, including rec-
25 ommendations related to project routing, as condi-

1 tions in the final certificate of public convenience
2 and necessity, or if the Commission determines that
3 a recommended siting constraint or mitigation meas-
4 ure is infeasible, excessively costly, or inconsistent
5 with the Federal policy established in subsection (a)
6 of section 216A or the national grid planning prin-
7 ciples adopted by the Commission pursuant to sub-
8 section (b) of section 216A—

9 “(A) consult with State regulatory agencies
10 to seek to resolve the issue;

11 “(B) incorporate as conditions on the cer-
12 tificate such recommended siting constraints or
13 mitigation measures as are determined to be
14 appropriate by the Commission, based on con-
15 sultation by the Commission with State regu-
16 latory agencies, the Federal policy established
17 in subsection (a) of section 216A and the na-
18 tional grid planning principles adopted by the
19 Commission pursuant to subsection (b) of sec-
20 tion 216A, and the record before the Commis-
21 sion; and

22 “(C) if, after consultation, the Commission
23 does not adopt in whole or in part a rec-
24 ommendation of an agency, publish a finding
25 that the adoption of the recommendation is in-

1 feasible, not cost effective, or inconsistent with
2 this section or other applicable provisions of
3 law.

4 “(d) CERTIFICATE APPLICATIONS.—(1) An applica-
5 tion for a preliminary or final certificate of public conven-
6 ience and necessity under this subsection shall be made
7 in writing to the Commission.

8 “(2) The Commission shall issue rules specifying—

9 “(A) the form of the application;

10 “(B) the information to be contained in the ap-
11 plication; and

12 “(C) the manner of service of notice of the ap-
13 plication on interested persons.

14 “(e) COORDINATION OF FEDERAL AUTHORIZATIONS
15 FOR TRANSMISSION FACILITIES.—

16 “(1) In this subsection, the term ‘Federal au-
17 thorization’ shall have the same meaning and include
18 the same actions as in section 216(h).

19 “(2) The Federal Energy Regulatory Commis-
20 sion shall act as the lead agency for purposes of co-
21 ordinating all applicable Federal authorizations and
22 related environmental reviews of the facility, pro-
23 vided, however, that to the extent the facility is pro-
24 posed to be sited on Federal lands, the Department
25 of the Interior will assume such lead-agency duties

1 as agreed between the Commission and the Depart-
2 ment of Interior.

3 “(3) To the maximum extent practicable under
4 applicable Federal law, the Commission, and to the
5 extent agreed, the Secretary of Interior, shall coordi-
6 nate the Federal authorization and review process
7 under this subsection with any Indian tribes,
8 multistate entities, and State agencies that are re-
9 sponsible for conducting any separate permitting
10 and environmental reviews of the facility, to ensure
11 timely and efficient review and permit decisions.

12 “(4)(A) As head of the lead agency, the Chair-
13 man of the Commission, in consultation with the
14 Secretary of Interior and with those entities referred
15 to in paragraph (3) that are willing to coordinate
16 their own separate permitting and environmental re-
17 views with the Federal authorization and environ-
18 mental reviews, shall establish prompt and binding
19 intermediate milestones and ultimate deadlines for
20 the review of, and Federal authorization decisions
21 relating to, the proposed facility.

22 “(B) The Chairman of the Commission, or the
23 Secretary of Interior, as agreed under paragraph
24 (2), shall ensure that, once an application has been
25 submitted with such data as the lead agency con-

1 siders necessary, all permit decisions and related en-
2 vironmental reviews under all applicable Federal
3 laws shall be completed—

4 “(i) within 1 year; or

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

8 “(C) The Commission shall provide an expedi-
9 tious pre-application mechanism for prospective ap-
10 plicants to confer with the agencies involved to have
11 each such agency determine and communicate to the
12 prospective applicant not later than 60 days after
13 the prospective applicant submits a request for such
14 information concerning—

15 “(i) the likelihood of approval for a poten-
16 tial facility; and

17 “(ii) key issues of concern to the agencies
18 and public.

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

24 “(B) The Chairman of the Commission and the
25 heads of other agencies shall streamline the review

1 and permitting of transmission within corridors des-
2 ignated under section 503 of the Federal Land Pol-
3 icy and Management Act (43 U.S.C. 1763) by fully
4 taking into account prior analyses and decisions re-
5 lating to the corridors.

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

9 “(6)(A) If any agency has denied a Federal au-
10 thorization required for a transmission facility, or
11 has failed to act by the deadline established by the
12 Commission pursuant to this section for deciding
13 whether to issue the authorization, the applicant or
14 any State in which the facility would be located may
15 file an appeal with the President, who shall, in con-
16 sultation with the affected agency, review the denial
17 or failure to take action on the pending application.

18 “(B) Based on the overall record and in con-
19 sultation with the affected agency, the President
20 may—

21 “(i) issue the necessary authorization with
22 any appropriate conditions; or

23 “(ii) deny the application.

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

4 “(D) In making a decision under this para-
5 graph, the President shall comply with applicable re-
6 quirements of Federal law, including any require-
7 ments of—

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

10 “(ii) the Endangered Species Act of 1973
11 (16 U.S.C. 1531 et seq.);

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

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

16 “(v) the Federal Land Policy and Manage-
17 ment Act of 1976 (43 U.S.C. 1701 et seq.).

18 “(7)(A) Not later than 18 months after August
19 8, 2005, the Commission or, as requested, the Sec-
20 retary or Interior, shall issue any regulations nec-
21 essary to implement this subsection.

22 “(B)(i) Not later than 1 year after August 8,
23 2005, the Commission, the Secretary of Interior,
24 and the heads of all Federal agencies with authority
25 to issue Federal authorizations shall enter into a

1 memorandum of understanding to ensure the timely
2 and coordinated review and permitting of electricity
3 transmission facilities.

4 “(ii) Interested Indian tribes, multistate enti-
5 ties, and State agencies may enter the memorandum
6 of understanding.

7 “(C) The head of each Federal agency with au-
8 thority to issue a Federal authorization shall des-
9 ignate a senior official responsible for, and dedicate
10 sufficient other staff and resources to ensure, full
11 implementation of the regulations and memorandum
12 required under this paragraph.

13 “(8)(A) Each Federal land use authorization
14 for an electricity transmission facility shall be
15 issued—

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

19 “(ii) with appropriate authority to manage
20 the right-of-way for reliability and environ-
21 mental protection.

22 “(B) On the expiration of the authorization (in-
23 cluding an authorization issued before August 8,
24 2005), the authorization shall be reviewed for re-
25 newal taking fully into account reliance on such elec-

1 tricity infrastructure, recognizing the importance of
2 the authorization for public health, safety, and eco-
3 nomic welfare and as a legitimate use of Federal
4 land.

5 “(9) In exercising the responsibilities under this
6 section, the Commission shall consult regularly
7 with—

8 “(A) electric reliability organizations (in-
9 cluding related regional entities) approved by
10 the Commission; and

11 “(B) Transmission Organizations approved
12 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 sec-
tion:

13 **SEC. 175. HIGH EFFICIENCY GAS TURBINE RESEARCH, DE-**
14 **VELOPMENT, AND DEMONSTRATION.**

15 (a) IN GENERAL.—The Secretary of Energy shall
16 carry out a multiyear, multiphase program of research, de-
17 velopment, and technology demonstration to improve the
18 efficiency of gas turbines used in combined cycle power
19 generation systems and to identify the technologies that

1 ultimately will lead to gas turbine combined cycle effi-
2 ciency of 65 percent.

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

5 (1) support first-of-a-kind engineering and de-
6 tailed gas turbine design for utility-scale electric
7 power generation, including—

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

10 (B) improved heat transfer capability;

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

14 (D) combustion technology to produce
15 higher firing temperature while lowering nitro-
16 gen oxide and carbon monoxide emissions per
17 unit of output;

18 (E) advanced controls and systems integra-
19 tion;

20 (F) advanced high performance compressor
21 technology; and

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

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

4 (3) include field demonstrations of the devel-
5 oped technology elements so as to demonstrate tech-
6 nical and economic feasibility; and

7 (4) assess overall combined cycle system per-
8 formance.

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

11 (1) in phase I—

12 (A) to develop the conceptual design of ad-
13 vanced high efficiency gas turbines that can
14 achieve at least 62 percent combined cycle effi-
15 ciency on a lower heating value basis; and

16 (B) to develop and demonstrate the tech-
17 nology required for advanced high efficiency gas
18 turbines that can achieve at least 62 percent
19 combined cycle efficiency on a lower heating
20 value basis; and

21 (2) in phase II, to develop the conceptual de-
22 sign for advanced high efficiency gas turbines that
23 can achieve at least 65 percent combined cycle effi-
24 ciency on a lower heating value basis.

1 (d) PROPOSALS.—Within 180 days after the date of
2 enactment of this section, the Secretary shall solicit pro-
3 posals for conducting activities under this section. In se-
4 lecting proposals, the Secretary shall emphasize—

5 (1) the extent to which the proposal will stimu-
6 late the creation or increased retention of jobs in the
7 United States; and

8 (2) the extent to which the proposal will pro-
9 mote and enhance United States technology leader-
10 ship.

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

14 (f) LIMITS ON PARTICIPATION.—The limits on par-
15 ticipation applicable under section 999E of the Energy
16 Policy Act of 2005 (42 U.S.C. 16375) shall apply to finan-
17 cial assistance awarded under this section.

18 (g) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to the Secretary for car-
20 rying out this section \$65,000,000 for each of fiscal years
21 2011 through 2014.

Page 256, line 2, strike “and”.

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

1 (11) sufficient availability of financial services
2 and support to small businesses developing and de-
3 ploying clean energy technologies through partner-
4 ships with private entities that have relevant credit
5 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:

6 “(4) The Clean Energy Deployment Adminis-
7 tration established under section 186 of the Amer-
8 ican 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:

9 **SEC. 199. DEVELOPMENT CORPORATION FOR RENEWABLE**
10 **POWER BORROWING AUTHORITY.**

11 (a) DETERMINATION.—No later than 6 months after
12 the date of enactment of this Act, the Secretary of Energy,
13 in coordination with the Secretary of Commerce, shall—

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

4 (2) develop a plan or criteria for the geographic
5 areas identified in paragraph (1) regarding invest-
6 ment in renewable energy and associated infrastruc-
7 ture within an area identified in paragraph (1); and

8 (3) identify any Federal agency within an area
9 in paragraph (1) that has, or could develop, the abil-
10 ity to facilitate the investment in paragraph (2).

11 (b) REPORT.—The Secretary of Energy, in coordina-
12 tion with the Secretary of Commerce, shall provide the de-
13 terminations made under subsection (a) to the Committee
14 on Energy and Commerce of the House of Representa-
15 tives.

16 (c) ESTABLISHMENT.—Based upon the determina-
17 tions made pursuant to subsection (a), the Secretary of
18 Energy, in coordination with the Secretary of Commerce,
19 shall recommend to the Committee on Energy and Com-
20 merce of the House of Representatives the establishment
21 of any new Federal lending authority, including authoriza-
22 tion of additional lending authority for existing Federal
23 agencies, not to exceed \$3,500,000,000 per geographic
24 area identified in subsection (a)(1).

1 (d) AUTHORIZATION.—\$25,000,000 is authorized to
2 be appropriated for fiscal year 2010 to carry out the provi-
3 sions of this section.

4 **SEC. 199A. STUDY.**

5 Not later than February 1, 2011, the Secretary of
6 Energy shall transmit to the Congress a report showing
7 the results of a study on the use of thorium-fueled nuclear
8 reactors for national energy needs. Such report shall in-
9 clude a response to the International Atomic Energy
10 Agency study entitled “Thorium fuel cycle - Potential ben-
11 efits 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:

12 (C) DISASTER DAMAGED BUILDINGS.—Any
13 source of funds, including Federal funds pro-

1 vided through the Robert T. Stafford Disaster
2 Relief and Emergency Assistance Act, shall
3 qualify as the building owner's 50 percent con-
4 tribution, in order to match the contribution of
5 REEP funds, so long as the REEP funds are
6 only used to improve the energy efficiency of
7 the buildings being reconstructed. In addition,
8 the appropriate Federal agencies providing as-
9 sistance to building owners through the Robert
10 T. Stafford Disaster Relief and Emergency As-
11 sistance Act shall make information available,
12 following a disaster, to building owners rebuild-
13 ing disaster damaged buildings with assistance
14 from the Act, that REEP funds may be used
15 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:

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

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

9 (B) such retrofits not shall not be used to
10 justify any increase in rents charged to resi-
11 dents of such housing; and

12 (C) owners of such housing shall agree to
13 continue to provide affordable housing con-
14 sistent with the provisions of the authorizing
15 legislation governing each program for an addi-
16 tional period commensurate with the funding
17 received.

Page 345, lines 7 through 11, strike “The Adminis-
trator,” and all that follows through “other residential
buildings.”.

Page 367, after line 7, insert the following new sub-
section:

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

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

4 **SEC. 207. COMMUNITY BUILDING CODE ADMINISTRATION**
5 **GRANTS.**

6 (a) GRANT PROGRAM AUTHORIZED.—

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

12 (2) COMPETITIVE AWARDS.—The Secretary
13 shall award grants under paragraph (1) on a competitive
14 basis taking into consideration the following:

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

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

20 (C) The demonstrated ability of each building
21 code enforcement department to work cooperatively
22 with other local code enforcement of-

1 fices, health departments, and local prosecu-
2 torial agencies.

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

6 (4) COORDINATION.—The Secretary of Housing
7 and Urban Development shall coordinate with the
8 Secretary of Energy to ensure that any unneces-
9 sarily duplicative funding through grants under this
10 section of activities otherwise funded through the
11 Department of Energy is minimized or eliminated.

12 (b) REQUIRED ELEMENTS IN GRANT PROPOSALS.—
13 In order to be eligible for a grant under subsection (a),
14 a building code enforcement department of a jurisdiction
15 shall submit to the Secretary the following:

16 (1) A demonstration of the jurisdiction's needs
17 in executing building code enforcement administra-
18 tion.

19 (2) A plan for the use of any funds received
20 from a grant under this section that addresses the
21 needs discussed in paragraph (1) and that is con-
22 sistent with the authorized uses established in sub-
23 section (c).

24 (3) A plan for local governmental actions to be
25 taken to establish and sustain local building code en-

1 enforcement administration functions, without con-
2 tinuing Federal support, at a level at least equiva-
3 lent to that proposed in the grant application.

4 (4) A plan to create and maintain a program of
5 public outreach that includes a regularly updated
6 and readily accessible means of public communica-
7 tion, interaction, and reporting regarding the serv-
8 ices and work of the building code enforcement de-
9 partment to be supported by the grant.

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

13 (c) USE OF FUNDS; MATCHING FUNDS.—

14 (1) AUTHORIZED USES.—Amounts from grants
15 awarded under subsection (a) may be used by the
16 grant recipient to supplement existing State or local
17 funding for administration of building code enforce-
18 ment, or to supplement allowance value received pur-
19 suant to this Act for implementation and enforce-
20 ment of energy efficiency building codes. Such
21 amounts may be used to increase staffing, provide
22 staff training, increase staff competence and profes-
23 sional qualifications, or support individual certifi-
24 cation or departmental accreditation, or for capital

1 expenditures specifically dedicated to the administra-
2 tion of the building code enforcement department.

3 (2) ADDITIONAL REQUIREMENT.—Each build-
4 ing code enforcement department receiving a grant
5 under subsection (a) shall empanel a code adminis-
6 tration and enforcement team consisting of at least
7 1 full-time building code enforcement officer, a city
8 planner, and a health planner or similar officer.

9 (3) MATCHING FUNDS REQUIRED.—

10 (A) IN GENERAL.—To be eligible to receive
11 a grant under this section, a building code en-
12 forcement department shall provide matching,
13 non-Federal funds in the following amount:

14 (i) In the case of a building code en-
15 forcement department serving an area with
16 a population of more than 50,000, an
17 amount equal to not less than 50 percent
18 of the total amount of any grant to be
19 awarded under this section.

20 (ii) In the case of a building code en-
21 forcement department serving an area with
22 a population of between 20,001 and
23 50,000, an amount equal to not less than
24 25 percent of the total amount of any
25 grant to be awarded under this section.

1 (iii) In the case of a building code en-
2 forcement department serving an area with
3 a population of less than 20,000, an
4 amount equal to not less than 12.5 percent
5 of the total amount of any grant to be
6 awarded under this section.

7 (B) ECONOMIC DISTRESS.—

8 (i) IN GENERAL.—The Secretary may
9 waive the matching fund requirements
10 under subparagraph (A), and institute, by
11 regulation, new matching fund require-
12 ments based upon the level of economic
13 distress of the jurisdiction in which the
14 local building code enforcement department
15 seeking such grant is located.

16 (ii) CONTENT OF REGULATIONS.—Any
17 regulations instituted under clause (i) shall
18 include—

19 (I) a method that allows for a
20 comparison of the degree of economic
21 distress among the local jurisdictions
22 of grant applicants, as measured by
23 the differences in the extent of growth
24 lag, the extent of poverty, and the ad-

1 justed age of housing in such jurisdic-
2 tion; and

3 (II) any other factor determined
4 to be relevant by the Secretary in as-
5 sessing the comparative degree of eco-
6 nomic distress among such jurisdic-
7 tions.

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

14 (5) WAIVER OF MATCHING REQUIREMENT.—
15 The Secretary shall waive the matching fund re-
16 quirements under paragraph (3) for any recipient ju-
17 risdiction that has dedicated all building code per-
18 mitting fees to the conduct of local building code en-
19 forcement.

20 (d) EVALUATION AND REPORT.—

21 (1) IN GENERAL.—Grant recipients under this
22 section shall—

23 (A) be obligated to fully account and re-
24 port for the use of all grants funds; and

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

7 (2) REPORT.—The report required under para-
8 graph (1)(B) shall include a discussion of—

9 (A) the specific capabilities and functions
10 in local building code enforcement administra-
11 tion that were addressed using funds received
12 under this section;

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

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

18 (3) CONTENT OF REPORTS.—The Secretary
19 shall—

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

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

4 (e) DEFINITIONS.—For purposes of this section, the
5 following definitions shall apply:

6 (1) BUILDING CODE ENFORCEMENT.—The term
7 “building code enforcement” means the enforcement
8 of any code, adopted by a State or local government,
9 that regulates the construction of buildings and fa-
10 cilities to mitigate hazards to life or property. Such
11 term includes building codes, electrical codes, energy
12 codes, fire codes, fuel gas codes, mechanical codes,
13 and plumbing codes.

14 (2) BUILDING CODE ENFORCEMENT DEPART-
15 MENT.—The term “building code enforcement de-
16 partment” means an inspection or enforcement
17 agency of a jurisdiction that is responsible for con-
18 ducting building code enforcement.

19 (3) JURISDICTION.—The term “jurisdiction”
20 means a city, county, parish, city and county author-
21 ity, or city and parish authority having local author-
22 ity to enforce building codes and regulations and to
23 collect fees for building permits.

24 (4) SECRETARY.—The term “Secretary” means
25 the Secretary of Housing and Urban Development.

1 (f) AUTHORIZATION OF APPROPRIATIONS.—

2 (1) IN GENERAL.—There are authorized to be
3 appropriated \$20,000,000 for each of fiscal years
4 2010 through 2014 to the Secretary of Housing and
5 Urban Development to carry out the provisions of
6 this section.

7 (2) RESERVATION.—From the amount made
8 available under paragraph (1), the Secretary may re-
9 serve not more than 5 percent for administrative
10 costs.

11 (3) AVAILABILITY.—Any funds appropriated
12 pursuant to paragraph (1) shall remain available
13 until expended.

14 **SEC. 208. SOLAR ENERGY SYSTEMS BUILDING PERMIT RE-**
15 **QUIREMENTS FOR RECEIPT OF COMMUNITY**
16 **DEVELOPMENT BLOCK GRANT FUNDS.**

17 Section 104 of the Housing and Community Develop-
18 ment Act of 1974 (42 U.S.C. 5304) is amended by adding
19 at the end the following new subsection:

20 “(n) REQUIREMENTS FOR BUILDING PERMITS RE-
21 GARDING SOLAR ENERGY SYSTEMS.—

22 “(1) IN GENERAL.—A grant under section 106
23 for a fiscal year may be made only if the grantee
24 certifies to the Secretary that—

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

10 “(B) in the case of a grant under section
11 106(b) for any metropolitan city or urban coun-
12 ty, during such fiscal year the cost of any per-
13 mit or license, for construction or installation of
14 any solar energy system for any structure, that
15 is required by the metropolitan city or urban
16 county, or by any other political subdivision of
17 such city or county, complies with paragraph
18 (2); and

19 “(C) in the case of a grant under section
20 106(d) for any State, during such fiscal year
21 the cost of any permit or license, for construc-
22 tion or installation of any solar energy system
23 for any structure, that is required by the State,
24 or by any other unit of general local govern-
25 ment within any nonentitlement area of such

1 State, or other political subdivision within any
2 nonentitlement area of such State or such a
3 unit of general local government, complies with
4 paragraph (2).

5 “(2) LIMITATION ON COST.—The cost of permit
6 or license for construction or installation of any
7 solar energy system complies with this paragraph
8 only if such cost does not exceed the following
9 amount:

10 “(A) RESIDENTIAL STRUCTURES.—In the
11 case of a structure primarily for residential use,
12 \$500.

13 “(B) NONRESIDENTIAL STRUCTURES.—In
14 the case of a structure primarily for nonresiden-
15 tial use, 1.0 percent of the total cost of the in-
16 stallation or construction of the solar energy
17 system, but not in excess of \$10,000.

18 “(3) NONCOMPLIANCE.—If the Secretary deter-
19 mines that a grantee of a grant made under section
20 106 is not in compliance with a certification under
21 paragraph (1)—

22 “(A) the Secretary shall notify the grantee
23 of such determination; and

24 “(B) if the grantee has not corrected such
25 noncompliance before the expiration of the 6-

1 month period beginning upon notification under
2 subparagraph (A), such grantee shall not be eli-
3 gible for 5 percent of any amounts awarded
4 under a grant under section 106 for the first
5 fiscal year that commences after the expiration
6 of such 6-month period.

7 “(4) SOLAR ENERGY SYSTEM.—For purposes of
8 this subsection, the term ‘solar energy system’
9 means, with respect to a structure, equipment that
10 uses solar energy to generate electricity for, or to
11 heat or cool (or provide hot water for use in), such
12 structure.”.

13 **SEC. 209. PROHIBITION OF RESTRICTIONS ON RESIDEN-**
14 **TIAL INSTALLATION OF SOLAR ENERGY SYS-**
15 **TEM.**

16 (a) REGULATIONS.—Within 180 days after the enact-
17 ment of this Act, the Secretary of Housing and Urban
18 Development, in consultation with the Secretary of En-
19 ergy, shall issue regulations—

20 (1) to prohibit any private covenant, contract
21 provision, lease provision, homeowners’ association
22 rule or bylaw, or similar restriction, that impairs the
23 ability of the owner or lessee of any residential
24 structure designed for occupancy by 1 family to in-

1 stall, construct, maintain, or use a solar energy sys-
2 tem on such residential property; and

3 (2) to require that whenever any such covenant,
4 provision, rule or bylaw, or restriction requires ap-
5 proval for the installation or use of a solar energy
6 system, the application for approval shall be proc-
7 essed and approved by the appropriate approving en-
8 tity in the same manner as an application for ap-
9 proval of an architectural modification to the prop-
10 erty, and shall not be willfully avoided or delayed.

11 (b) CONTENTS.—The regulations required under sub-
12 section (a) shall provide that—

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

16 (A) unreasonably delays or prevents instal-
17 lation, maintenance, or use;

18 (B) unreasonably increases the cost of in-
19 stallation, maintenance, or use; or

20 (C) precludes use of such a system; and

21 (2) any fee or cost imposed on the owner or les-
22 see of such a residential structure by such a cov-
23 enant, provision, rule or bylaw, or restriction shall
24 be considered unreasonable if—

1 (A) such fee or cost is not reasonable in
2 comparison to the cost of the solar energy sys-
3 tem or the value of its use; or

4 (B) treatment of solar energy systems by
5 the covenant, provision, rule or bylaw, or re-
6 striction is not reasonable in comparison with
7 treatment of comparable systems by the same
8 covenant, provision, rule or bylaw, or restric-
9 tion.

10 (c) SOLAR ENERGY SYSTEM.—For purposes of this
11 section, the term “solar energy system” means, with re-
12 spect to a structure, equipment that uses solar energy to
13 generate electricity for, or to heat or cool (or provide hot
14 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:

1 **SEC. 217. EARLY ADOPTER WATER EFFICIENT PRODUCT IN-**
2 **CENTIVE PROGRAMS.**

3 (a) DEFINITIONS.—In this section:

4 (1) ELIGIBLE ENTITY.—The term “eligible enti-
5 ty” means a State government, local or county gov-
6 ernment, tribal government, wastewater or sewerage
7 utility, municipal water authority, energy utility,
8 water utility, or nonprofit organization that meets
9 the requirements of subsection (b).

10 (2) INCENTIVE PROGRAM.—The term “incentive
11 program” means a program for administering finan-
12 cial incentives for consumer purchase and installa-

1 tion of residential water efficient products and serv-
2 ices as described in subsection (b)(1).

3 (3) RESIDENTIAL WATER EFFICIENT PRODUCT
4 OR SERVICE.—The term “residential water efficient
5 product or service” means a product or service for
6 a single-family or multifamily residence or its land-
7 scape that is rated for water efficiency and perform-
8 ance—

9 (A) by the WaterSense program; or

10 (B) where a WaterSense specification does
11 not exist, by an incentive program.

12 Categories of water efficient products and services
13 may include faucets, irrigation technologies and
14 services, point-of-use water treatment devices, reuse
15 and recycling technologies, toilets, and showerheads.

16 (4) WATERSENSE PROGRAM.—The term
17 “WaterSense program” means the program estab-
18 lished by section 215 of this Act.

19 (b) ELIGIBLE ENTITIES.—An entity shall be eligible
20 to receive an allocation under subsection (c) if the entity—

21 (1) establishes (or has established) an incentive
22 program to provide rebates, vouchers, other financial
23 incentives, or direct installs to consumers for the
24 purchase of residential water efficient products or
25 services;

1 (2) submits an application for the allocation at
2 such time, in such form, and containing such infor-
3 mation as the Administrator may require; and

4 (3) provides assurances satisfactory to the Ad-
5 ministrator that the entity will use the allocation to
6 supplement, but not supplant, funds made available
7 to carry out the incentive program.

8 (c) AMOUNT OF ALLOCATIONS.—For each fiscal year,
9 the Administrator shall determine the amount to allocate
10 to each eligible entity to carry out subsection (d) taking
11 into consideration—

12 (1) the population served by the eligible entity
13 in the most recent calendar year for which data are
14 available;

15 (2) the targeted population of the eligible enti-
16 ty's incentive program, such as general households,
17 low-income households, or first-time homeowners,
18 and the probable effectiveness of the incentive pro-
19 gram for that population;

20 (3) for existing programs, the effectiveness of
21 the incentive program in encouraging the adoption
22 of water efficient products and services; and

23 (4) any prior year's allocation to the eligible en-
24 tity that remains unused.

1 (d) USE OF ALLOCATED FUNDS.—Funds allocated to
2 an entity under subsection (c) may be used to pay up to
3 50 percent of the cost of establishing and carrying out
4 an incentive program.

5 (e) FIXTURE RECYCLING.—Entities are encouraged
6 to promote or implement fixture recycling programs to
7 manage the disposal of older fixtures replaced due to the
8 incentive program under this section.

9 (f) ISSUANCE OF INCENTIVES.—Financial incentives
10 may be provided to consumers that meet the requirements
11 of the incentive program. The entity may issue all finan-
12 cial incentives directly to consumers or, with approval of
13 the Administrator, delegate some or all financial incentives
14 administration to other organizations including, but not
15 limited to, local governments, municipal water authorities,
16 and water utilities. The amount of a financial incentives
17 shall be determined by the entity, taking into consider-
18 ation—

19 (1) the amount of the allocation to the entity
20 under subsection (c);

21 (2) the amount of any Federal, State, or other
22 organization's tax or financial incentive available for
23 the purchase of the residential water efficient prod-
24 uct or service;

1 (3) the amount necessary to change consumer
2 behavior to purchase water efficient products and
3 services; and

4 (4) the consumer expenditures for onsite prepa-
5 ration, assembly, and original installation of the
6 product.

7 (g) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated to the Administrator to
9 carry out this section \$50,000,000 for fiscal year 2010,
10 \$100,000,000 for fiscal year 2011, \$150,000,000 for fis-
11 cal year 2012, \$100,000,000 for fiscal year 2013, and
12 \$50,000,000 for fiscal year 2014.

Page 465, line 22, insert “, including cost effective-
ness from the consumer’s perspective, and relative length
of time for consumers to recover costs attributable to the
energy efficient features,” after “relative energy effi-
ciency”.

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

13 **SEC. 246. CLEAN ENERGY MANUFACTURING REVOLVING**
14 **LOAN FUND PROGRAM.**

15 The National Institute of Standards and Technology
16 Act (15 U.S.C. 271 et seq.) is amended by inserting after
17 section 26 the following:

1 **“SEC. 27. CLEAN ENERGY MANUFACTURING REVOLVING**
2 **LOAN FUND PROGRAM.**

3 “(a) PURPOSES.—The purposes of this section are as
4 follows:

5 “(1) To develop the long-term manufacturing
6 capacity of the United States.

7 “(2) To create jobs through the retooling and
8 expansion of manufacturing facilities to produce
9 clean energy technology products and energy effi-
10 cient products.

11 “(3) To improve the long-term competitiveness
12 of domestic manufacturing by increasing the energy
13 efficiency of manufacturing facilities.

14 “(4) To assist small and medium-sized manu-
15 facturers diversify operations to respond to emerging
16 clean energy technology product markets.

17 “(b) DEFINITIONS.—In this section:

18 “(1) CLEAN ENERGY TECHNOLOGY PRODUCT.—
19 The term ‘clean energy technology product’ means
20 technology products relating to the following:

21 “(A) Wind turbines.

22 “(B) Solar energy.

23 “(C) Fuel cells.

24 “(D) Advanced batteries, battery systems,
25 or storage devices.

26 “(E) Biomass equipment.

1 “(F) Geothermal equipment.

2 “(G) Advanced biofuels.

3 “(H) Ocean energy equipment.

4 “(I) Carbon capture and storage.

5 “(J) Such other products as the Secretary
6 determines—

7 “(i) relate to the production, use,
8 transmission, storage, control, or conserva-
9 tion of energy;

10 “(ii) reduce greenhouse gas concentra-
11 tions;

12 “(iii) achieve the earliest and max-
13 imum emission reductions within a reason-
14 able period per dollar invested;

15 “(iv) result in the fewest non-green-
16 house gas environmental impacts; and

17 “(v) either—

18 “(I) reduce the need for addi-
19 tional energy supplies by—

20 “(aa) using existing energy
21 supplies with greater efficiency;

22 or

23 “(bb) by transmitting, dis-
24 tributing, or transporting energy
25 with greater effectiveness

1 through the infrastructure of the
2 United States; or

3 “(II) diversity the sources of en-
4 ergy supply of the United States—

5 “(aa) to strengthen energy
6 security; and

7 “(bb) to increase supplies
8 with a favorable balance of envi-
9 ronmental effects if the entire
10 technology system is considered.

11 “(2) ENERGY EFFICIENT PRODUCT.—The term
12 ‘energy efficient product’ means a product that, as
13 determined by the Secretary in consultation with the
14 Secretary of Energy—

15 “(A) consumes significantly less energy
16 than the average amount that all similar prod-
17 ucts consumed on the day before the date of the
18 enactment of this Act; or

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

23 “(3) HOLLINGS MANUFACTURING EXTENSION
24 CENTER.—The term ‘Hollings Manufacturing Exten-

1 sion Center’ means a center established under sec-
2 tion 25.

3 “(4) HOLLINGS MANUFACTURING PARTNERSHIP
4 PROGRAM.—The term ‘Hollings Manufacturing Part-
5 nership Program’ means the program established
6 under sections 25 and 26.

7 “(5) PROGRAM.—The term ‘Program’ means
8 the grant program established pursuant to sub-
9 section (c)(1).

10 “(6) REVOLVING LOAN FUND.—The term ‘re-
11 volving loan fund’ means a revolving loan fund de-
12 scribed in subsection (d).

13 “(7) SECRETARY.—Except as otherwise pro-
14 vided, the term ‘Secretary’ means the Secretary of
15 Commerce.

16 “(8) SMALL OR MEDIUM-SIZED MANUFAC-
17 TURER.—The term ‘small or medium-sized manufac-
18 turer’ means a manufacturer that employs fewer
19 than 500 full-time equivalent employees at a manu-
20 facturing facility that is not owned or controlled by
21 an automobile manufacturer.

22 “(c) GRANT PROGRAM.—

23 “(1) ESTABLISHMENT.—Not later than 120
24 days after the date of the enactment of this section,
25 the Secretary shall establish a program under which

1 the Secretary shall award grants to States to estab-
2 lish revolving loan funds to provide loans to small
3 and medium-sized manufacturers to finance the cost
4 of—

5 “(A) reequipping, expanding, or estab-
6 lishing (including applicable engineering costs)
7 a manufacturing facility in the United States to
8 produce—

9 “(i) clean energy technology products;

10 “(ii) energy efficient products; or

11 “(iii) integral component parts of
12 clean energy technology products or energy
13 efficient products; or

14 “(B) reducing the energy intensity or
15 greenhouse gas production of a manufacturing
16 facility in the United States, including using
17 energy intensive feedstocks.

18 “(2) MAXIMUM AMOUNT.—The Secretary may
19 not award a grant under the Program in an amount
20 that exceeds \$500,000,000 in any fiscal year.

21 “(d) CRITERIA FOR AWARDING GRANTS.—

22 “(1) MATCHING FUNDS.—The Secretary may
23 make a grant to a State under the Program only if
24 the State agrees to ensure that for each loan pro-
25 vided by the State under the Program, not less than

1 20 percent of the amount of each loan will come
2 from a non-Federal source.

3 “(2) ADMINISTRATIVE COSTS.—A State receiv-
4 ing a grant under the Program may only use such
5 amount of the grant for the costs of administering
6 the revolving loan fund as the Secretary shall pro-
7 vide in regulations.

8 “(3) APPLICATION.—Each State seeking a
9 grant under the Program shall submit to the Sec-
10 retary an application therefor in such form and in
11 such manner as the Secretary considers appropriate.

12 “(4) EVALUATION.—The Secretary shall evalu-
13 ate and prioritize an application submitted by a
14 State for a grant under the Program on the basis
15 of—

16 “(A) the description of the revolving loan
17 fund to be established with the grant and how
18 such revolving loan fund will achieve the pur-
19 poses described in subsection (a);

20 “(B) whether the State will be able to pro-
21 vide loans from the revolving loan fund to small
22 or medium-sized manufacturers before the date
23 that is 120 days after the date on which the
24 State receives the grant;

1 “(C) a description of how the State will
2 administer the revolving loan fund in coordina-
3 tion with other State and Federal programs, in-
4 cluding programs administered by the Assistant
5 Secretary for Economic Development;

6 “(D) a description of the actual or poten-
7 tial clean energy manufacturing supply chains,
8 including significant component parts, in the re-
9 gion served by the revolving loan fund;

10 “(E) how the State will target the provi-
11 sion of loans under the Program to manufactur-
12 ers located in regions characterized by high un-
13 employment and sudden and severe economic
14 dislocation, in particular where mass layoffs
15 have resulted in a precipitous increase in unem-
16 ployment;

17 “(F) the availability of a skilled manufac-
18 turing workforce in the region served by the re-
19 volving loan fund and the capacity of the re-
20 gion’s workforce and education systems to pro-
21 vide pathways for unemployed or low-income
22 workers into skilled manufacturing employment;

23 “(G) a description of how the State will
24 target loans to small or medium-sized manufac-
25 turers who are—

1 “(i) manufacturers of automobile com-
2 ponents; and

3 “(ii) either—

4 “(I) increasing the energy effi-
5 ciency of their manufacturing facili-
6 ties; or

7 “(II) retooling to manufacture
8 clean energy products or energy effi-
9 cient products, including manufac-
10 turing components to improve the
11 compliance of an automobile with fuel
12 economy standards prescribed under
13 section 32902 of title 49, United
14 States Code;

15 “(H) a description of how the State will
16 use the loan fund to achieve the earliest and
17 maximum greenhouse gas emission reductions
18 within a reasonable period of time per dollar in-
19 vested and with the fewest non-greenhouse gas
20 environmental impacts; and

21 “(I) such other factors as the Secretary
22 considers appropriate to ensure that grants
23 awarded under the Program effectively and effi-
24 ciently achieve the purposes described in sub-
25 section (a).

1 “(e) REVOLVING LOAN FUNDS.—

2 “(1) IN GENERAL.—A State receiving a grant
3 under the Program shall establish, maintain, and
4 administer a revolving loan fund in accordance with
5 this subsection.

6 “(2) DEPOSITS.—A revolving loan fund shall
7 consist of the following:

8 “(A) Amounts from grants awarded under
9 this section.

10 “(B) All amounts held or received by the
11 State incident to the provision of loans de-
12 scribed in subsection (f), including all collec-
13 tions of principal and interest.

14 “(3) EXPENDITURES.—Amounts in the revolv-
15 ing loan fund shall be available for the provision and
16 administration of loans in accordance with sub-
17 section (f).

18 “(4) LIMITATION.—No funds provided pursuant
19 to this section may be leveraged through use of tax-
20 exempt bonding authority by a State or a political
21 subdivision of a State.

22 “(f) LOANS.—

23 “(1) IN GENERAL.—A State receiving a grant
24 under this section shall use the amount in the re-
25 volving loan fund to provide loans to small and me-

1 dium-sized manufacturers as described in subsection
2 (c)(1).

3 “(2) LOAN TERMS AND CONDITIONS.—The fol-
4 lowing shall apply with respect to loans provided
5 under paragraph (1):

6 “(A) TERMS.—Loans shall have a term de-
7 termined by the State receiving the grant as
8 follows:

9 “(i) For fixed assets, the term of the
10 loan shall not exceed the useful life of the
11 asset and shall be less than 15 years.

12 “(ii) For working capital, the term of
13 the loan shall not exceed 36 months.

14 “(B) INTEREST RATES.—Loans shall bear
15 an interest rate determined by the State receiv-
16 ing the grant as follows:

17 “(i) The interest rate shall enable the
18 loan recipient to accomplish the activities
19 described in subparagraphs (A) and (B) of
20 subsection (c)(1).

21 “(ii) The interest rate may be set
22 below-market interest rates.

23 “(iii) The interest rate may not be
24 less than zero percent.

1 “(iv) The interest rate may not exceed
2 the current prime rate plus 500 basis
3 points.

4 “(C) DESCRIPTION AND BUDGET FOR USE
5 OF LOAN FUNDS.—Each recipient of a loan
6 from a State under the Program shall develop
7 and submit to the State and the Secretary a de-
8 scription and budget for the use of loan
9 amounts, including a description of the fol-
10 lowing:

11 “(i) Any new business expected to be
12 developed with the loan.

13 “(ii) Any improvements to manufac-
14 turing operations to be developed with the
15 loan.

16 “(iii) Any technology expected to be
17 commercialized with the loan.

18 “(D) PRIORITY IN REVIEW AND PREF-
19 ERENCE IN SELECTION FOR CERTAIN LOAN AP-
20 PLICANTS.—

21 “(i) REVIEW.—In reviewing applica-
22 tions submitted by small or medium-sized
23 manufacturers for a loan, a recipient of a
24 grant under the Program shall give pri-

1 ority to small or medium-sized manufac-
2 turers described in clause (iii).

3 “(ii) SELECTION.—In selecting small
4 or medium-sized manufacturers to receive
5 a loan, a recipient of a grant under the
6 Program shall give preference to small or
7 medium-sized manufacturers described in
8 clause (iii).

9 “(iii) PRIORITY AND PREFERRED
10 SMALL OR MEDIUM-SIZED MANUFACTUR-
11 ERS.—A small or medium-sized manufac-
12 turer described in this clause is a manufac-
13 turer that—

14 “(I) is certified by a Hollings
15 Manufacturing Extension Center or a
16 manufacturing-related local inter-
17 mediary designated by the Secretary
18 for purposes of providing such certifi-
19 cation; or

20 “(II) provides individuals em-
21 ployed at the manufacturing facilities
22 of the manufacturer—

23 “(aa) pay in amounts that
24 are, on average, equal to or more
25 than the average wage of an indi-

1 vidual working in a manufac-
2 turing facility in the State; and

3 “(bb) health benefits.

4 “(iv) CERTIFICATION BY HOLLINGS
5 MANUFACTURING EXTENSION CENTER.—A
6 Hollings Manufacturing Extension Center
7 or other entity designated by the Secretary
8 for purposes of providing certification
9 under clause (iii)(I) shall only certify appli-
10 cations for a loan after carrying out a
11 qualitative and quantitative review of the
12 applicant’s business strategy, manufac-
13 turing operations, and technological ability
14 to contribute to the purposes described in
15 subsection (a).

16 “(E) REPAYMENT UPON RELOCATION OUT-
17 SIDE UNITED STATES.—

18 “(i) IN GENERAL.—If a person re-
19 ceives a loan under paragraph (1) to fi-
20 nance the cost of reequipping, expanding,
21 or establishing a manufacturing facility as
22 described in subsection (c)(1)(A) or to re-
23 duce the energy intensity of a manufac-
24 turing facility and such person relocates
25 the production activities of such manufac-

1 turing facility outside the United States
2 during the term of the loan, the recipient
3 shall repay such loan in full with interest
4 as described in clause (ii) and for a dura-
5 tion described in clause (iii).

6 “(ii) PAYMENT OF INTEREST.—Any
7 amount owed by the recipient of a loan
8 under paragraph (1) who is required to
9 repay the loan under clause (i) shall bear
10 interest at a penalty rate determined by
11 the Secretary to deter recipients of loans
12 under paragraph (1) from relocating pro-
13 duction activities as described in clause (i).

14 “(iii) PERIOD OF REPAYMENT.—Re-
15 payment of a loan under clause (i) shall be
16 for a duration determined by the Sec-
17 retary.

18 “(F) COMPLIANCE WITH WAGE RATE RE-
19 QUIREMENTS.—Each recipient of a loan shall
20 undertake and agree to incorporate or cause to
21 be incorporated into all contracts for construc-
22 tion, alteration or repair, which are paid for in
23 whole or in part with funds obtained pursuant
24 to such loan, a requirement that all laborers
25 and mechanics employed by contractors and

1 subcontractors performing construction, alter-
2 ation or repair shall be paid wages at rates not
3 less than those determined by the Secretary of
4 Labor, in accordance with subchapter IV of
5 chapter 31 of title 40, United States Code
6 (known as the ‘Davis-Bacon Act’), to be pre-
7 vailing for the corresponding classes of laborers
8 and mechanics employed on projects of a char-
9 acter similar to the contract work in the same
10 locality in which the work is to be performed.
11 The Secretary of Labor shall have, with respect
12 to the labor standards specified in this subpara-
13 graph, the authority and functions set forth in
14 Reorganization Plan Numbered 14 of 1950 (15
15 F.R. 3176; 64 Stat. 1267) and section 3145 of
16 title 40, United States Code.

17 “(G) ANNUAL REPORTS BY LOAN RECIPI-
18 ENTS.—Each recipient of a loan issued by a
19 State under paragraph (1) shall, not less fre-
20 quently than once each year during the term of
21 the loan, submit to such State a report con-
22 taining such information as the Secretary may
23 specify for purposes of the Program, including
24 information that the Secretary can use to deter-

1 (2) in paragraph (3), by striking the period at
2 the end and inserting “; and”; and

3 (3) by adding at the end the following:

4 “(4) the establishment of a clean energy manu-
5 facturing supply chain initiative—

6 “(A) to support manufacturers in their
7 identification of and diversification to new mar-
8 kets, including support for manufacturers
9 transitioning to the use of clean energy supply
10 chains;

11 “(B) to assist manufacturers improve their
12 competitiveness by reducing energy intensity
13 and greenhouse gas production, including the
14 use of energy intensive feedstocks;

15 “(C) to increase adoption and implementa-
16 tion of innovative manufacturing technologies;

17 “(D) to coordinate and leverage the exper-
18 tise of the National Laboratories and Tech-
19 nology Centers and the Industrial Assessment
20 Centers of the Department of Energy to meet
21 the needs of manufacturers; and

22 “(E) to identify, assist, and certify manu-
23 facturers seeking loans under section
24 27(e)(1).”.

1 (b) REDUCTION IN COST SHARE REQUIREMENTS.—
2 Section 25(c) of such Act (15 U.S.C. 278k(c)) is amend-
3 ed—

4 (1) in paragraph (1), by inserting “or as pro-
5 vided in paragraph (5)” after “not to exceed six
6 years”;

7 (2) in paragraph (3)(B), by striking “not less
8 than 50 percent of the costs incurred for the first
9 3 years and an increasing share for each of the last
10 3 years” and inserting “50 percent of the costs in-
11 curred or such lesser percentage of the costs in-
12 curred as determined appropriate by the Secretary
13 by rule”; and

14 (3) in paragraph (5)—

15 (A) by striking “at declining levels”;

16 (B) by striking “one third” and inserting
17 “50 percent”; and

18 (C) by inserting “, or such lesser percent-
19 age as determined appropriate by the Secretary
20 by rule,” after “maintenance costs”.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to the Secretary of Com-
23 merce for the Hollings Manufacturing Partnership Pro-
24 gram authorized under sections 25 of the National Insti-
25 tute of Standards and Technology Act (15 U.S.C. 278k)

1 and for the provision of assistance under section 26 of
2 such Act (15 U.S.C. 278*l*)—

3 (1) \$200,000,000 for fiscal year 2010;

4 (2) \$250,000,000 for fiscal year 2011;

5 (3) \$300,000,000 for fiscal year 2012;

6 (4) \$350,000,000 for fiscal year 2013; and

7 (5) \$400,000,000 for fiscal year 2014.

8 **SEC. 248. TECHNICAL AMENDMENTS.**

9 (a) AMENDMENT TO NATIONAL INSTITUTE OF
10 STANDARDS AND TECHNOLOGY ACT.—Section 25 of the
11 National Institute of Standards and Technology Act (15
12 U.S.C. 278k(b)) is amended—

13 (1) in subsection (a), by striking “(hereafter in
14 this Act referred to as the ‘Centers’)”; and

15 (2) by adding at the end the following:

16 “(g) DESIGNATION.—

17 “(1) HOLLINGS MANUFACTURING PARTNERSHIP
18 PROGRAM.—The program under this section shall be
19 known as the ‘Hollings Manufacturing Partnership
20 Program’.

21 “(2) HOLLINGS MANUFACTURING EXTENSION
22 CENTERS.—The Regional Centers for the Transfer
23 of Manufacturing Technology created and supported
24 under subsection (a) shall be known as the ‘Hollings

1 Manufacturing Extension Centers’ (in this Act re-
2 ferred to as the ‘Centers’).”.

3 (b) AMENDMENT TO CONSOLIDATED APPROPRIA-
4 TIONS ACT, 2005.—Division B of title II of the Consoli-
5 dated Appropriations Act, 2005 (Public Law 108–447;
6 118 Stat. 2879; 15 U.S.C. 278k note) is amended under
7 the heading “INDUSTRIAL TECHNOLOGY SERVICES” by
8 striking “2007: *Provided further*, That” and all that fol-
9 lows through “Extension Centers.” and inserting “2007.”.

Page 504, after line 8, insert the following new sec-
tion:

10 **SEC. 265. CONSUMER BEHAVIOR RESEARCH.**

11 (a) IN GENERAL.—The Secretary of Energy is au-
12 thorized to establish a research program to identify the
13 factors affecting consumer actions to conserve energy and
14 make improvements in energy efficiency. Through the pro-
15 gram the Secretary will make grants to public and private
16 institutions of higher education to study the effects of con-
17 sumer behavior on total energy use; potential energy sav-
18 ings from changes in consumption habits; the ability to
19 reduce greenhouse gas emissions through changes in en-
20 ergy consumption habits; increase public awareness of
21 Federal climate adaptation and mitigation programs; and
22 the potential for alterations in consumer behavior to fur-
23 ther American energy independence. Grants may also fund

1 projects that evaluate or inform public knowledge of the
2 effects of energy consumption habits on these topics.

3 (b) GRANTS.—The purpose of the program is to pro-
4 vide grants to public and private institutions of higher
5 education to carry out projects which will improve under-
6 standing of the effects of consumer behavior on energy
7 consumption and conservation. The Secretary shall make
8 grants on a competitive basis for—

9 (1) studies of the effects of consumer habits on
10 energy consumption and conservation;

11 (2) development of strategies that communicate
12 the importance of energy efficiency and conservation
13 to consumers;

14 (3) identification of best practices to improve
15 consumer energy use habits;

16 (4) education programs that inform consumers
17 about the implications of consumption habits on en-
18 ergy use and climate change;

19 (5) evaluation of the effectiveness of programs
20 designed to promote public awareness of Federal
21 Government climate adaptation and mitigation ac-
22 tivities; and

23 (6) other projects that advance the mission of
24 the program.

1 (c) REPORT.—The Secretary of Energy shall provide
2 Congress with a report on progress towards establishing
3 the program within 120 days after the date of enactment
4 of this Act.

5 (d) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated such sums as may be
7 necessary to carry out this section.

Page 521, after line 3, insert the following:

8 **SEC. 275. INDUSTRIAL ENERGY EFFICIENCY EDUCATION**
9 **AND TRAINING INITIATIVE.**

10 (a) IN GENERAL.—The Secretary of Energy shall
11 carry out a national education and awareness program for
12 the purpose of informing building, facility, and industrial
13 plant owners and managers and decisionmakers, govern-
14 ment leaders, and industry leaders about the large energy-
15 saving potential of greater use of mechanical insulation,
16 and other benefits.

17 (b) PURPOSE AND GOALS.—

18 (1) PURPOSE.—The purpose of the initiative
19 shall be to increase the energy efficiency of the com-
20 mercial and industrial sectors through an ongoing
21 program that will include—

22 (A) education and training sessions;

23 (B) Web-based information; and

24 (C) advertising.

1 (2) GOALS.—The goals of the initiative shall be
2 to—

3 (A) educate and motivate commercial
4 building owners and industrial facility managers
5 to utilize mechanical insulation in new and ex-
6 isting facilities;

7 (B) preserve and create jobs while reduc-
8 ing energy and greenhouse gas emissions;

9 (C) create a safer working environment
10 and make businesses more competitive in a
11 global economy; and

12 (D) motivate and empower the industry to
13 make better use of mechanical insulation
14 through awareness, education, and training.

15 (c) REPORT.—Not later than July 1, 2013, the Sec-
16 retary shall submit to Congress a report describing the
17 extent by which the initiative has been enacted and the
18 actual and projected effectiveness of the program under
19 this section, including the energy efficiency, greenhouse
20 gas emissions reductions, cost savings, and safety benefits
21 at manufacturing facilities, power plants, refineries, hos-
22 pitals, universities, government buildings, and other com-
23 mercial and industrial locations.

24 (d) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated \$3,500,000 for each of

1 fiscal years 2010 through 2014 to carry out this section.
2 The Secretary may enter into a cooperative agreement, in-
3 cluding grant funding, with an industry association and
4 union working collaboratively and having expertise on the
5 installation, maintenance, measure of efficiencies and
6 standards, and certification of mechanical insulation in
7 buildings and facilities.

8 (e) **TERMINATION OF AUTHORITY.**—The program
9 carried out under this section shall terminate on December
10 31, 2014.

11 **SEC. 276. SENSE OF CONGRESS.**

12 It is the sense of Congress that the United States
13 should—

14 (1) continue to actively promote, within the
15 International Civil Aviation Organization, the devel-
16 opment of a global framework for the regulation of
17 greenhouse gas emissions from civil aircraft that rec-
18 ognizes the uniquely international nature of the in-
19 dustry and treats commercial aviation industries in
20 all countries fairly; and

21 (2) work with foreign governments towards a
22 global agreement that reconciles foreign carbon
23 emissions reduction programs to minimize duplica-
24 tive requirements and avoids unnecessary complica-

1 tion for the aviation industry, while still achieving
2 the environmental goals.

3 **Subtitle H—Green Resources for**
4 **Energy Efficient Neighborhoods**

5 **SEC. 281. SHORT TITLE.**

6 This subtitle may be cited as the “Green Resources
7 for Energy Efficient Neighborhoods Act of 2009” or the
8 “GREEN Act of 2009”.

9 **SEC. 282. DEFINITIONS.**

10 For purposes of this subtitle, the following definitions
11 shall apply:

12 (1) GREEN BUILDING STANDARDS.—The term
13 “green building standards” means standards to re-
14 quire use of sustainable design principles to reduce
15 the use of nonrenewable resources, encourage en-
16 ergy-efficient construction and rehabilitation and the
17 use of renewable energy resources, minimize the im-
18 pact of development on the environment, and im-
19 prove indoor air quality.

20 (2) HUD.—The term “HUD” means the De-
21 partment of Housing and Urban Development.

22 (3) HUD ASSISTANCE.—The term “HUD as-
23 sistance” means financial assistance that is awarded,
24 competitively or noncompetitively, allocated by for-

1 mula, or provided by HUD through loan insurance
2 or guarantee.

3 (4) NONRESIDENTIAL STRUCTURE.—The term
4 “nonresidential structures” means only nonresiden-
5 tial structures that are appurtenant to single-family
6 or multifamily housing residential structures, or
7 those that are funded by the Secretary of Housing
8 and Urban Development through the HUD Commu-
9 nity Development Block Grant program.

10 (5) SECRETARY.—The term “Secretary”, unless
11 otherwise specified, means the Secretary of Housing
12 and Urban Development.

13 **SEC. 283. IMPLEMENTATION OF ENERGY EFFICIENCY PAR-**
14 **TICIPATION INCENTIVES FOR HUD PRO-**
15 **GRAMS.**

16 (a) IN GENERAL.—Not later than 180 days after the
17 date of the enactment of this Act, the Secretary shall issue
18 such regulations as may be necessary to establish annual
19 energy efficiency participation incentives to encourage par-
20 ticipants in programs administered by the Secretary, in-
21 cluding recipients under programs for which HUD assist-
22 ance is provided, to achieve substantial improvements in
23 energy efficiency.

24 (b) REQUIREMENT FOR APPROPRIATION OF
25 FUNDS.—The requirement under subsection (a) for the

1 Secretary to provide annual energy efficiency participation
2 incentives pursuant to the provisions of this subtitle shall
3 be subject to the annual appropriation of necessary funds.

4 **SEC. 284. BASIC HUD ENERGY EFFICIENCY STANDARDS**
5 **AND STANDARDS FOR ADDITIONAL CREDIT.**

6 (a) BASIC HUD STANDARD.—

7 (1) RESIDENTIAL STRUCTURES.—A residential
8 single-family or multifamily structure shall be con-
9 sidered to comply with the energy efficiency stand-
10 ards under this subsection if—

11 (A) the structure complies with an energy
12 efficiency building code that has been certified
13 as in compliance with section 304 of the Energy
14 Conservation and Production Act (42 U.S.C.
15 6833) as amended by section 201 of this Act,
16 or a national energy efficiency building code
17 adopted pursuant to that section;

18 (B) the structure complies with the appli-
19 cable provisions of the American Society of
20 Heating, Refrigerating, and Air-Conditioning
21 Engineers Standard 90.1–2007, as such stand-
22 ard or successor standard is in effect for pur-
23 poses of this section pursuant subsection (c);

24 (C) the structure complies with the appli-
25 cable provisions of the 2009 International En-

1 energy Conservation Code, as such standard or
2 successor standard is in effect for purposes of
3 this section pursuant subsection (c);

4 (D) in the case only of an existing struc-
5 ture, where determined cost effective, the struc-
6 ture has undergone rehabilitation or improve-
7 ments, completed after the date of the enact-
8 ment of this Act, and the energy consumption
9 for the structure has been reduced by at least
10 20 percent from the previous level of consump-
11 tion, as determined in accordance with energy
12 audits performed both before and after any re-
13 habilitation or improvements undertaken to re-
14 duce such consumption; or

15 (E) the structure complies with the appli-
16 cable provisions of such other energy efficiency
17 requirements, standards, checklists, or ratings
18 systems as the Secretary may adopt and apply
19 by regulation, as may be necessary, for pur-
20 poses of this section for specific types of resi-
21 dential single-family or multifamily structures
22 or otherwise, except that the Secretary shall
23 make a determination regarding whether to
24 adopt and apply any such requirements, stand-
25 ards, checklists, or rating system for purposes

1 of this section not later than the expiration of
2 the 180-day period beginning upon the date of
3 receipt of any written request, made in such
4 form as the Secretary shall provide, for such
5 adoption and application.

6 In addition to compliance with any of subparagraphs
7 (A) through (E), the Secretary shall by regulation
8 require, for any newly constructed residential single-
9 family or multifamily structure to be considered to
10 comply with the energy efficiency standards under
11 this subsection, that the structure have appropriate
12 electrical outlets with the facility and capacity to re-
13 charge a standard electric passenger vehicle, includ-
14 ing an electric hybrid vehicle, where such vehicle
15 would normally be parked.

16 (2) NONRESIDENTIAL STRUCTURES.—For pur-
17 poses of this section, the Secretary shall identify and
18 adopt by regulation, as may be necessary, energy ef-
19 ficiency requirements, standards, checklists, or rat-
20 ing systems applicable to nonresidential structures
21 that are constructed or rehabilitated with HUD as-
22 sistance. A nonresidential structure shall be consid-
23 ered to comply with the energy efficiency standards
24 under this subsection if the structure complies with
25 the applicable provisions of any such energy effi-

1 ciency requirements, standards, checklist, or rating
2 systems identified and adopted by the Secretary pur-
3 suant to this paragraph, as such standards are in ef-
4 fect for purposes of this section pursuant to sub-
5 section (c).

6 (3) EFFECT.—Nothing in this subsection may
7 be construed to require any structure to comply with
8 any standard established or adopted pursuant to this
9 subsection, or identified in this subsection, or to pro-
10 vide any benefit or credit under any Federal pro-
11 gram for any structure that complies with any such
12 standard, except to the extent that—

13 (A) any provision of law other than this
14 subsection provides a benefit or credit under a
15 Federal program for compliance with a stand-
16 ard established or adopted pursuant to this sub-
17 section, or identified in this subsection; or

18 (B) the Secretary specifically provides pur-
19 suant to subsection (c) for the applicability of
20 such standard.

21 (b) ENHANCED ENERGY EFFICIENCY STANDARDS
22 FOR PURPOSES OF PROVIDING ADDITIONAL CREDIT
23 UNDER CERTAIN FEDERALLY ASSISTED HOUSING PRO-
24 GRAMS.—

25 (1) PURPOSE AND EFFECT.—

1 (A) PURPOSE.—The purpose of this sub-
2 section is to establish energy efficiency and con-
3 servation standards and green building stand-
4 ards that—

5 (i) provide for greater energy effi-
6 ciency and conservation in structures than
7 is required for compliance with the energy
8 efficiency standards under subsection (a)
9 and then in effect;

10 (ii) provide for green and sustainable
11 building standards not required by such
12 standards; and

13 (iii) can be used in connection with
14 Federal housing, housing finance, and de-
15 velopment programs to provide incentives
16 for greater energy efficiency and conserva-
17 tion and for green and sustainable building
18 methods, elements, practices, and mate-
19 rials.

20 (B) EFFECT.—Nothing in this subsection
21 may be construed to require any structure to
22 comply with any standard established pursuant
23 to this subsection or to provide any benefit or
24 credit under any Federal program for any
25 structure, except to the extent that any provi-

1 sion of law other than this subsection provides
2 a benefit or credit under a Federal program for
3 compliance with a standard established pursu-
4 ant to this subsection.

5 (2) COMPLIANCE.—A residential or nonresiden-
6 tial structure shall be considered to comply with the
7 enhanced energy efficiency and conservation stand-
8 ards or the green building standards under this sub-
9 section, to the extent that such structure complies
10 with the applicable provisions of the standards under
11 paragraph (3) or (4), respectively (as such standards
12 are in effect for purposes of this section, pursuant
13 to paragraph (7)), in a manner that is not required
14 for compliance with the energy efficiency standards
15 under subsection (a) then in effect and subject to
16 the Secretary’s determination of which standards are
17 applicable to which structures.

18 (3) ENERGY EFFICIENCY AND CONSERVATION
19 STANDARDS.—The energy efficiency and conserva-
20 tion standards under this paragraph are as follows:

21 (A) RESIDENTIAL STRUCTURES.—With re-
22 spect to residential structures:

23 (i) NEW CONSTRUCTION.—For new
24 construction, the Energy Star standards
25 established by the Environmental Protec-

1 tion Agency, as such standards are in ef-
2 fect for purposes of this subsection pursu-
3 ant to paragraph (7);

4 (ii) EXISTING STRUCTURES.—For ex-
5 isting structures, a reduction in energy
6 consumption from the previous level of
7 consumption for the structure, as deter-
8 mined in accordance with energy audits
9 performed both before and after any reha-
10 bilitation or improvements undertaken to
11 reduce such consumption, that exceeds the
12 reduction necessary for compliance with
13 the energy efficiency standards under sub-
14 section (a) then in effect and applicable to
15 existing structures.

16 (B) NONRESIDENTIAL STRUCTURES.—
17 With respect to nonresidential structures, such
18 energy efficiency and conservation require-
19 ments, standards, checklists, or rating systems
20 for nonresidential structures as the Secretary
21 shall identify and adopt by regulation, as may
22 be necessary, for purposes of this paragraph.

23 (4) GREEN BUILDING STANDARDS.—The green
24 building standards under this paragraph are as fol-
25 lows:

1 (A) The national Green Communities cri-
2 teria checklist for residential construction that
3 provides criteria for the design, development,
4 and operation of affordable housing, as such
5 checklist or successor checklist is in effect for
6 purposes of this section pursuant to paragraph
7 (7).

8 (B) The gold certification level for the
9 LEED for New Construction rating system, the
10 LEED for Homes rating system, the LEED for
11 Core and Shell rating system, as applicable, as
12 such systems or successor systems are in effect
13 for purposes of this section pursuant to para-
14 graph (7).

15 (C) The Green Globes assessment and rat-
16 ing system of the Green Buildings Initiative.

17 (D) For manufactured housing, energy
18 star rating with respect to fixtures, appliances,
19 and equipment in such housing, as such stand-
20 ard or successor standard is in effect for pur-
21 poses of this section pursuant to paragraph (7).

22 (E) The National Green Building Stand-
23 ard.

24 (F) Any other requirements, standards,
25 checklists, or rating systems for green building

1 or sustainability as the Secretary may identify
2 and adopt by regulation, as may be necessary
3 for purposes of this paragraph, except that the
4 Secretary shall make a determination regarding
5 whether to adopt and apply any such require-
6 ments, standards, checklist, or rating system
7 for purposes of this section not later than the
8 expiration of the 180-day period beginning upon
9 date of receipt of any written request, made in
10 such form as the Secretary shall provide, for
11 such adoption and application.

12 (5) GREEN BUILDING.—For purposes of this
13 subsection, the term “green building” means, with
14 respect to standards for structures, standards to re-
15 quire use of sustainable design principles to reduce
16 the use of nonrenewable resources, minimize the im-
17 pact of development on the environment, and to im-
18 prove indoor air quality.

19 (6) ENERGY AUDITS.—The Secretary shall es-
20 tablish standards and requirements for energy au-
21 dits for purposes of paragraph (3)(A)(ii) and, in es-
22 tablishing such standards, may consult with any ad-
23 visory committees established pursuant to section
24 285(c)(2) of this subtitle.

1 (7) APPLICABILITY AND UPDATING OF STAND-
2 ARDS.—

3 (A) APPLICABILITY.—Except as provided
4 in subparagraph (B), the requirements, stand-
5 ards, checklists, and rating systems referred to
6 in this subsection that are in effect for purposes
7 of this subsection are such requirements, stand-
8 ards, checklists, and systems are as in existence
9 upon the date of the enactment of this Act.

10 (B) UPDATING.—For purposes of this sec-
11 tion, the Secretary may adopt and apply by reg-
12 ulation, as may be necessary, future amend-
13 ments and supplements to, and editions of, the
14 requirements, standards, checklists, and rating
15 systems referred to in this subsection, including
16 applicable energy efficiency building codes that
17 are certified as in compliance with section 304
18 of the Energy Conservation and Production Act
19 (42 U.S.C. 6833) as amended by section 201 of
20 this Act, or national energy efficiency building
21 codes adopted pursuant to that section.

22 (c) AUTHORITY OF SECRETARY TO APPLY STAND-
23 ARDS TO FEDERALLY ASSISTED HOUSING AND PRO-
24 GRAMS.—

1 (1) HUD HOUSING AND PROGRAMS.—The Sec-
2 retary of Housing and Urban Development may, by
3 regulation, provide for the applicability of the energy
4 efficiency standards under subsection (a) or the en-
5 hanced energy efficiency and conservation standards
6 and green building standards under subsection (b),
7 or both, with respect to any covered federally as-
8 sisted housing described in paragraph (3)(A) or any
9 HUD assistance, subject to minimum Federal codes
10 or standards then in effect.

11 (2) RURAL HOUSING.—The Secretary of Agri-
12 culture may, by regulation, provide for the applica-
13 bility of the energy efficiency standards under sub-
14 section (a) or the enhanced energy efficiency and
15 conservation standards and green building standards
16 under subsection (b), or both, with respect to any
17 covered federally assisted housing described in para-
18 graph (3)(B) or any assistance provided with respect
19 to rural housing by the Rural Housing Service of the
20 Department of Agriculture, subject to minimum
21 Federal codes or standards then in effect.

22 (3) COVERED FEDERALLY ASSISTED HOUS-
23 ING.—For purposes of this subsection, the term
24 “covered federally assisted housing” means—

1 (A) any residential or nonresidential struc-
2 ture for which any HUD assistance is provided;
3 and

4 (B) any new construction of single-family
5 housing (other than manufactured homes) sub-
6 ject to mortgages insured, guaranteed, or made
7 by the Secretary of Agriculture under title V of
8 the Housing Act of 1949 (42 U.S.C. 1471 et
9 seq.).

10 **SEC. 285. ENERGY EFFICIENCY AND CONSERVATION DEM-**
11 **ONSTRATION PROGRAM FOR MULTIFAMILY**
12 **HOUSING PROJECTS ASSISTED WITH**
13 **PROJECT-BASED RENTAL ASSISTANCE.**

14 (a) **AUTHORITY.**—For multifamily housing projects
15 for which project-based rental assistance is provided under
16 a covered multifamily assistance program, the Secretary
17 shall, subject to the availability of amounts provided in
18 advance in appropriation Acts, carry out a program to
19 demonstrate the effectiveness of funding a portion of the
20 costs of meeting the enhanced energy efficiency standards
21 under section 284(b). At the discretion of the Secretary,
22 the demonstration program may include incentives for
23 housing that is assisted with Indian housing block grants
24 provided pursuant to the Native American Housing Assist-
25 ance and Self-Determination Act of 1996, but only to the

1 extent that such inclusion does not violate such Act, its
2 regulations, and the goal of such Act of tribal self-deter-
3 mination.

4 (b) GOALS.—The demonstration program under this
5 section shall be carried out in a manner that—

6 (1) protects the financial interests of the Fed-
7 eral Government;

8 (2) reduces the proportion of funds provided by
9 the Federal Government and by owners and resi-
10 dents of multifamily housing projects that are used
11 for costs of utilities for the projects;

12 (3) encourages energy efficiency and conserva-
13 tion by owners and residents of multifamily housing
14 projects and installation of renewable energy im-
15 provements, such as improvements providing for use
16 of solar, wind, geothermal, or biomass energy
17 sources;

18 (4) creates incentives for project owners to
19 carry out such energy efficiency renovations and im-
20 provements by allowing a portion of the savings in
21 operating costs resulting from such renovations and
22 improvements to be retained by the project owner,
23 notwithstanding otherwise applicable limitations on
24 dividends;

1 (5) promotes the installation, in existing resi-
2 dential buildings, of energy-efficient and cost-effec-
3 tive improvements and renewable energy improve-
4 ments, such as improvements providing for use of
5 solar, wind, geothermal, or biomass energy sources;

6 (6) tests the efficacy of a variety of energy effi-
7 ciency measures for multifamily housing projects of
8 various sizes and in various geographic locations;

9 (7) tests methods for addressing the various,
10 and often competing, incentives that impede owners
11 and residents of multifamily housing projects from
12 working together to achieve energy efficiency or con-
13 servation; and

14 (8) creates a database of energy efficiency and
15 conservation, and renewable energy, techniques, en-
16 ergy-savings management practices, and energy effi-
17 ciency and conservation financing vehicles.

18 (c) APPROACHES.—In carrying out the demonstra-
19 tion program under this section, the Secretary may—

20 (1) enter into agreements with the Building
21 America Program of the Department of Energy and
22 other consensus committees under which such pro-
23 grams, partnerships, or committees assume some or
24 all of the functions, obligations, and benefits of the
25 Secretary with respect to energy savings;

1 (2) establish advisory committees to advise the
2 Secretary and any such third-party partners on tech-
3 nological and other developments in the area of en-
4 ergy efficiency and the creation of an energy effi-
5 ciency and conservation credit facility and other fi-
6 nancing opportunities, which committees shall in-
7 clude representatives of homebuilders, realtors, ar-
8 chitects, nonprofit housing organizations, environ-
9 mental protection organizations, renewable energy
10 organizations, and advocacy organizations for the el-
11 derly and persons with disabilities; any advisory
12 committees established pursuant to this paragraph
13 shall not be subject to the Federal Advisory Com-
14 mittee Act (5 U.S.C. App.);

15 (3) approve, for a period not to exceed 10
16 years, additional adjustments in the maximum
17 monthly rents or additional project rental assistance,
18 or additional Indian housing block grant funds
19 under the Native American Housing Assistance and
20 Self-Determination Act of 1996, as applicable, for
21 dwelling units in multifamily housing projects that
22 are provided project-based rental assistance under a
23 covered multifamily assistance program, in such
24 amounts as may be necessary to amortize a portion

1 of the cost of energy efficiency and conservation
2 measures for such projects;

3 (4) develop a competitive process for the award
4 of such additional assistance for multifamily housing
5 projects seeking to implement energy efficiency, re-
6 newable energy sources, or conservation measures;
7 and

8 (5) waive or modify any existing statutory or
9 regulatory provision that would otherwise impair the
10 implementation or effectiveness of the demonstration
11 program under this section, including provisions re-
12 lating to methods for rent adjustments, com-
13 parability standards, maximum rent schedules, and
14 utility allowances; notwithstanding the preceding
15 provisions of this paragraph, the Secretary may not
16 waive any statutory requirement relating to fair
17 housing, nondiscrimination, labor standards, or the
18 environment, except pursuant to existing authority
19 to waive nonstatutory environmental and other ap-
20 plicable requirements.

21 (d) REQUIREMENT.—During the 4-year period begin-
22 ning 12 months after the date of the enactment of this
23 Act, the Secretary shall carry out demonstration programs
24 under this section with respect to not fewer than 50,000
25 dwelling units.

1 (e) SELECTION.—

2 (1) SCOPE.—In order to provide a broad and
3 representative profile for use in designing a program
4 which can become operational and effective nation-
5 wide, the Secretary shall carry out the demonstra-
6 tion program under this section with respect to
7 dwelling units located in a wide variety of geographic
8 areas and project types assisted by the various cov-
9 ered multifamily assistance programs and using a
10 variety of energy efficiency and conservation and
11 funding techniques to reflect differences in climate,
12 types of dwelling units and technical and scientific
13 methodologies, and financing options. The Secretary
14 shall ensure that the geographic areas included in
15 the demonstration program include dwelling units on
16 Indian lands (as such term is defined in section
17 2601 of the Energy Policy Act of 1992 (25 U.S.C.
18 3501), to the extent that dwelling units on Indian
19 land have the type of residential structures that are
20 the focus of the demonstration program.

21 (2) PRIORITY.—The Secretary shall provide pri-
22 ority for selection for participation in the program
23 under this section based on the extent to which, as
24 a result of assistance provided, the project will com-

1 ply with the energy efficiency standards under sub-
2 section (a), (b), or (c) of section 284 of this subtitle.

3 (f) USE OF EXISTING PARTNERSHIPS.—To the ex-
4 tent feasible, the Secretary shall—

5 (1) utilize the Partnership for Advancing Tech-
6 nology in Housing of the Department of Housing
7 and Urban Development to assist in carrying out the
8 requirements of this section and to provide education
9 and outreach regarding the demonstration program
10 authorized under this section; and

11 (2) consult with the Secretary of Energy, the
12 Administrator of the Environmental Protection
13 Agency, and the Secretary of the Army regarding
14 utilizing the Building America Program of the De-
15 partment of Energy, the Energy Star Program, and
16 the Army Corps of Engineers, respectively, to deter-
17 mine the manner in which they might assist in car-
18 rying out the goals of this section and providing edu-
19 cation and outreach regarding the demonstration
20 program authorized under this section.

21 (g) LIMITATION.—No amounts made available under
22 the American Recovery and Reinvestment Act of 2009
23 (Public Law 111–5) may be used to carry out the dem-
24 onstration program under this section.

25 (h) REPORTS.—

1 (1) ANNUAL.—Not later than the expiration of
2 the 2-year beginning upon the date of the enactment
3 of this Act, and for each year thereafter during the
4 term of the demonstration program, the Secretary
5 shall submit a report to the Congress annually that
6 describes and assesses the demonstration program
7 under this section.

8 (2) FINAL.—Not later than 6 months after the
9 expiration of the 4-year period described in sub-
10 section (d), the Secretary shall submit a final report
11 to the Congress assessing the demonstration pro-
12 gram, which—

13 (A) shall assess the potential for expanding
14 the demonstration program on a nationwide
15 basis; and

16 (B) shall include descriptions of—

17 (i) the size of each multifamily hous-
18 ing project for which assistance was pro-
19 vided under the program;

20 (ii) the geographic location of each
21 project assisted, by State and region;

22 (iii) the criteria used to select the
23 projects for which assistance is provided
24 under the program;

1 (iv) the energy efficiency and con-
2 servation measures and financing sources
3 used for each project that is assisted under
4 the program;

5 (v) the difference, before and during
6 participation in the demonstration pro-
7 gram, in the amount of the monthly assist-
8 ance payments under the covered multi-
9 family assistance program for each project
10 assisted under the program;

11 (vi) the average length of the term of
12 the such assistance provided under the
13 program for a project;

14 (vii) the aggregate amount of savings
15 generated by the demonstration program
16 and the amount of savings expected to be
17 generated by the program over time on a
18 per-unit and aggregate program basis;

19 (viii) the functions performed in con-
20 nection with the implementation of the
21 demonstration program that were trans-
22 ferred or contracted out to any third par-
23 ties;

1 (ix) an evaluation of the overall suc-
2 cesses and failures of the demonstration
3 program; and

4 (x) recommendations for any actions
5 to be taken as a result of the such suc-
6 cesses and failures.

7 (3) CONTENTS.—Each annual report pursuant
8 to paragraph (1) and the final report pursuant to
9 paragraph (2) shall include—

10 (A) a description of the status of each mul-
11 tifamily housing project selected for participa-
12 tion in the demonstration program under this
13 section; and

14 (B) findings from the program and rec-
15 ommendations for any legislative actions.

16 (i) COVERED MULTIFAMILY ASSISTANCE PRO-
17 GRAM.—For purposes of this section, the term “covered
18 multifamily assistance program” means—

19 (1) the program under section 8 of the United
20 States Housing Act of 1937 (42 U.S.C. 1437f) for
21 project-based rental assistance;

22 (2) the program under section 202 of the Hous-
23 ing Act of 1959 (12 U.S.C. 1701q) for assistance
24 for supportive housing for the elderly;

1 (3) the program under section 811 of the Cran-
2 ston-Gonzalez National Affordable Housing Act (42
3 U.S.C. 8013) for supportive housing for persons
4 with disabilities;

5 (4) the program under section 236 of the Na-
6 tional Housing Act (12 U.S.C. 1715z-1 for assist-
7 ance for rental housing projects;

8 (5) the program under section 515 of the Hous-
9 ing Act of 1949 (42 U.S.C. 1485) for rural rental
10 housing; and

11 (6) the program for assistance under the Native
12 American Housing Assistance and Self-Determina-
13 tion Act of 1996 (25 U.S.C. 4111).

14 (j) AUTHORIZATION OF APPROPRIATIONS.—There is
15 authorized to be appropriated to carry out this section,
16 including providing rent adjustments, additional project
17 rental assistance, and incentives, \$50,000,000 for each fis-
18 cal year in which the demonstration program under this
19 section is carried out.

20 (k) REGULATIONS.—Not later than the expiration of
21 the 180-day period beginning on the date of the enactment
22 of this Act, the Secretary shall issue any regulations nec-
23 essary to carry out this section.

1 **SEC. 286. ADDITIONAL CREDIT FOR FANNIE MAE AND**
2 **FREDDIE MAC HOUSING GOALS FOR ENERGY-**
3 **EFFICIENT AND LOCATION-EFFICIENT MORT-**
4 **GAGES.**

5 Section 1336(a) of the Housing and Community De-
6 velopment Act of 1992 (12 U.S.C. 4566(a)), as amended
7 by the Federal Housing Finance Regulatory Reform Act
8 of 2008 (Public Law 110–289; 122 Stat. 2654), is amend-
9 ed—

10 (1) in paragraph (2), by striking “paragraph
11 (5)” and inserting “paragraphs (5) and (6)”; and

12 (2) by adding at the end the following new
13 paragraph:

14 “(6) ADDITIONAL CREDIT.—

15 “(A) IN GENERAL.—In assigning credit to-
16 ward achievement under this section of the
17 housing goals for mortgage purchase activities
18 of the enterprises, the Director shall assign—

19 “(i) more than 125 percent credit, for
20 any such purchase that both—

21 “(I) complies with the require-
22 ments of such goals; and

23 “(II)(aa) supports housing that
24 meets the energy efficiency standards
25 under section 284(a) of the Green Re-

1 sources for Energy Efficient Neigh-
2 borhoods Act of 2009; or

3 “(bb) is a location-efficient mort-
4 gage, as such term is defined in sec-
5 tion 1335(e); and

6 “(ii) credit in addition to credit under
7 clause (i), for any such purchase that
8 both—

9 “(I) complies with the require-
10 ments of such goals, and

11 “(II) supports housing that com-
12 plies with the enhanced energy effi-
13 ciency and conservation standards, or
14 the green building standards, under
15 section 284(b) of such Act, or both,

16 and such additional credit shall be given
17 based on the extent to which the housing
18 supported with such purchases complies
19 with such standards.

20 “(B) TREATMENT OF ADDITIONAL CRED-
21 IT.—The availability of additional credit under
22 this paragraph shall not be used to increase any
23 housing goal, subgoal, or target established
24 under this subpart.”.

1 **SEC. 287. DUTY TO SERVE UNDERSERVED MARKETS FOR**
2 **ENERGY-EFFICIENT AND LOCATION-EFFI-**
3 **CIENT MORTGAGES.**

4 Section 1335 of Federal Housing Enterprises Finan-
5 cial Safety and Soundness Act of 1992 (12 U.S.C. 4565),
6 as amended by the Federal Housing Finance Regulatory
7 Reform Act of 2008 (Public Law 110–289; 122 Stat.
8 2654), is amended—

9 (1) in subsection (a)(1), by adding at the end
10 the following new subparagraph:

11 “(D) **MARKETS FOR ENERGY-EFFICIENT**
12 **AND LOCATION-EFFICIENT MORTGAGES.—**

13 “(i) **DUTY.**—Subject to clause (ii), the
14 enterprise shall develop loan products and
15 flexible underwriting guidelines to facilitate
16 a secondary market for energy-efficient
17 and location-efficient mortgages on hous-
18 ing for very low-, low-, and moderate-in-
19 come families, and for second and junior
20 mortgages made for purposes of energy ef-
21 ficiency or renewable energy improvements,
22 or both.

23 “(ii) **AUTHORITY TO SUSPEND.**—Not-
24 withstanding any other provision of this
25 section, the Director may suspend the ap-
26 plicability of the requirement under clause

1 (i) with respect to an enterprise, for such
2 period as is necessary, if the Director de-
3 termines that exigent circumstances exist
4 and such suspension is appropriate to en-
5 sure the safety and soundness of the port-
6 folio holdings of the enterprise.”;

7 (2) by adding at the end the following new sub-
8 section:

9 “(e) DEFINITIONS.—For purposes of this section, the
10 following definitions shall apply:

11 “(1) ENERGY-EFFICIENT MORTGAGE.—The
12 term ‘energy-efficient mortgage’ means a mortgage
13 loan under which the income of the borrower, for
14 purposes of qualification for such loan, is considered
15 to be increased by not less than \$1 for each \$1 of
16 savings projected to be realized by the borrower as
17 a result of cost-effective energy-saving design, con-
18 struction or improvements (including use of renew-
19 able energy sources, such as solar, geothermal, bio-
20 mass, and wind, super-insulation, energy-saving win-
21 dows, insulating glass and film, and radiant barrier)
22 for the home for which the loan is made.

23 “(2) LOCATION-EFFICIENT MORTGAGE.—The
24 term ‘location-efficient mortgage’ means a mortgage
25 loan under which—

1 “(A) the income of the borrower, for pur-
2 poses of qualification for such loan, is consid-
3 ered to be increased by not less than \$1 for
4 each \$1 of savings projected to be realized by
5 the borrower because the location of the home
6 for which loan is made will result in decreased
7 transportation costs for the household of the
8 borrower; or

9 “(B) the sum of the principal, interest,
10 taxes, and insurance due under the mortgage
11 loan is decreased by not less than \$1 for each
12 \$1 of savings projected to be realized by the
13 borrower because the location of the home for
14 which loan is made will result in decreased
15 transportation costs for the household of the
16 borrower.”.

17 **SEC. 288. CONSIDERATION OF ENERGY EFFICIENCY UNDER**
18 **FHA MORTGAGE INSURANCE PROGRAMS AND**
19 **NATIVE AMERICAN AND NATIVE HAWAIIAN**
20 **LOAN GUARANTEE PROGRAMS.**

21 (a) **FHA MORTGAGE INSURANCE.—**

22 (1) **REQUIREMENT.—**Title V of the National
23 Housing Act is amended by adding after section 542
24 (12 U.S.C. 1735f–20) the following new section:

1 **“SEC. 543. CONSIDERATION OF ENERGY EFFICIENCY.**

2 “(a) UNDERWRITING STANDARDS.—The Secretary
3 shall establish a method to consider, in its underwriting
4 standards for mortgages on single-family housing meeting
5 the energy efficiency standards under section 284(a) of
6 the Green Resources for Energy Efficient Neighborhoods
7 Act of 2009 that are insured under this Act, the impact
8 that savings on utility costs has on the income of the mort-
9 gator.

10 “(b) GOAL.—It is the sense of the Congress that, in
11 carrying out this Act, the Secretary should endeavor to
12 insure mortgages on single-family housing meeting the en-
13 ergy efficiency standards under section 284(a) of the
14 Green Resources for Energy Efficient Neighborhoods Act
15 of 2009 such that at least 50,000 such mortgages are in-
16 sured during the period beginning upon the date of the
17 enactment of such Act and ending on December 31,
18 2012.”.

19 (2) REPORTING ON DEFAULTS.—Section 540(b)
20 of the National Housing Act (12 U.S.C. 1735f–
21 18(b)) is amended by adding at the end the fol-
22 lowing new paragraph:

23 “(3) With respect to each collection period that
24 commences after December 31, 2011, the total num-
25 ber of mortgages on single-family housing meeting
26 the energy efficiency standards under section 284(a)

1 of the Green Resources for Energy Efficient Neigh-
2 borhoods Act of 2009 that are insured by the Sec-
3 retary during the applicable collection period, the
4 number of defaults and foreclosures occurring on
5 such mortgages during such period, the percentage
6 of the total of such mortgages insured during such
7 period on which defaults and foreclosure occurred,
8 and the rate for such period of defaults and fore-
9 closures on such mortgages compared to the overall
10 rate for such period of defaults and foreclosures on
11 mortgages for single-family housing insured under
12 this Act by the Secretary.”.

13 (b) INDIAN HOUSING LOAN GUARANTEES.—

14 (1) REQUIREMENT.—Section 184 of the Hous-
15 ing and Community Development Act of 1992 (12
16 U.S.C. 1715z–13a) is amended—

17 (A) by redesignating subsection (l) as sub-
18 section (m); and

19 (B) by inserting after subsection (k) the
20 following new subsection:

21 “(l) CONSIDERATION OF ENERGY EFFICIENCY.—The
22 Secretary shall establish a method to consider, in its un-
23 derwriting standards for loans for single-family housing
24 meeting the energy efficiency standards under section
25 284(a) of the Green Resources for Energy Efficient

1 Neighborhoods Act of 2009 that are guaranteed under
2 this section, the impact that savings on utility costs has
3 on the income of the borrower.”.

4 (2) REPORTING ON DEFAULTS.—Section 540(b)
5 of the National Housing Act (12 U.S.C. 1735f–
6 18(b)), as amended by subsection (a)(2) of this sec-
7 tion, is further amended by adding at the end the
8 following new paragraph:

9 “(4) With respect to each collection period that
10 commences after December 31, 2011, the total num-
11 ber of loans guaranteed under section 184 of the
12 Housing and Community Development Act of 1992
13 (12 U.S.C. 1715z–13a) on single-family housing
14 meeting the energy efficiency standards under sec-
15 tion 284(a) of the Green Resources for Energy Effi-
16 cient Neighborhoods Act of 2009 that are guaran-
17 teed by the Secretary during the applicable collection
18 period, the number of defaults and foreclosures oc-
19 ccurring on such loans during such period, the per-
20 centage of the total of such loans guaranteed during
21 such period on which defaults and foreclosure oc-
22 curred, and the rate for such period of defaults and
23 foreclosures on such loans compared to the overall
24 rate for such period of defaults and foreclosures on

1 loans for single-family housing guaranteed under
2 such section 184 by the Secretary.”.

3 (c) NATIVE HAWAIIAN HOUSING LOAN GUARAN-
4 TEES.—

5 (1) REQUIREMENT.—Section 184A of the
6 Housing and Community Development Act of 1992
7 (12 U.S.C. 1715z–13b) is amended by inserting
8 after subsection (l) the following new subsection:

9 “(m) ENERGY-EFFICIENT HOUSING REQUIRE-
10 MENT.—The Secretary shall establish a method to con-
11 sider, in its underwriting standards for loans for single-
12 family housing meeting the energy efficiency standards
13 under section 284(a) of the Green Resources for Energy
14 Efficient Neighborhoods Act of 2009 that are guaranteed
15 under this section, the impact that savings on utility costs
16 has on the income of the borrower.”.

17 (2) REPORTING ON DEFAULTS.—Section 540(b)
18 of the National Housing Act (12 U.S.C. 1735f–
19 18(b)), as amended by the preceding provisions of
20 this section, is further amended by adding at the
21 end the following new paragraph:

22 “(5) With respect to each collection period that
23 commences after December 31, 2011, the total num-
24 ber of loans guaranteed under section 184A of the
25 Housing and Community Development Act of 1992

1 (12 U.S.C. 1715z–13b) on single-family housing
2 meeting the energy efficiency standards under sec-
3 tion 284(a) of the Green Resources for Energy Effi-
4 cient Neighborhoods Act of 2009 that are guaran-
5 teed by the Secretary during the applicable collection
6 period, the number of defaults and foreclosures oc-
7 ccurring on such loans during such period, the per-
8 centage of the total of such loans guaranteed during
9 such period on which defaults and foreclosure oc-
10 curred, and the rate for such period of defaults and
11 foreclosures on such loans compared to the overall
12 rate for such period of defaults and foreclosures on
13 loans for single-family housing guaranteed under
14 such section 184A by the Secretary.”.

15 **SEC. 289. ENERGY-EFFICIENT MORTGAGES AND LOCATION-**
16 **EFFICIENT MORTGAGES EDUCATION AND**
17 **OUTREACH CAMPAIGN.**

18 Section 106 of the Energy Policy Act of 1992 (12
19 U.S.C. 1701z–16) is amended by adding at the end the
20 following new subsection:

21 “(g) EDUCATION AND OUTREACH CAMPAIGN.—

22 “(1) DEVELOPMENT OF ENERGY- AND LOCA-
23 TION-EFFICIENT MORTGAGES OUTREACH PRO-
24 GRAM.—

1 “(A) COMMISSION.—The Secretary, in con-
2 sultation and coordination with the Secretary of
3 Energy, the Secretary of Education, the Sec-
4 retary of Agriculture, and the Administrator of
5 the Environmental Protection Agency, shall es-
6 tablish a commission to develop and recommend
7 model mortgage products and underwriting
8 guidelines that provide market-based incentives
9 to prospective home buyers, lenders, and sellers
10 to incorporate energy efficiency upgrades and
11 location efficiencies in new mortgage loan trans-
12 actions.

13 “(B) REPORT.—Not later than 24 months
14 after the date of the enactment of this Act, the
15 Secretary shall provide a written report to the
16 Congress on the results of work of the commis-
17 sion established pursuant to subparagraph (A)
18 and that identifies model mortgage products
19 and underwriting guidelines that may encour-
20 age energy and location efficiency.

21 “(2) IMPLEMENTATION.—After submission of
22 the report under paragraph (1)(B), the Secretary, in
23 consultation and coordination with the Secretary of
24 Energy, the Secretary of Education, and the Admin-
25 istrator of the Environmental Protection Agency,

1 shall carry out a public awareness, education, and
2 outreach campaign based on the findings of the com-
3 mission established pursuant to paragraph (1) to in-
4 form and educate residential lenders and prospective
5 borrowers regarding the availability, benefits, advan-
6 tages, and terms of energy-efficient mortgages and
7 location-efficient mortgages made available pursuant
8 to this section, energy-efficient and location-efficient
9 mortgages that meet the requirements of section
10 1335 of the Housing and Community Development
11 Act of 1992 (42 U.S.C. 4565), and other mortgages,
12 including mortgages for multifamily housing, that
13 have energy improvement features or location effi-
14 ciency features and to publicize such availability,
15 benefits, advantages, and terms. Such actions may
16 include entering into a contract with an appropriate
17 entity to publicize and market such mortgages
18 through appropriate media.

19 “(3) RENEWABLE ENERGY HOME PRODUCT
20 EXPOS.—The Congress hereby encourages the Sec-
21 retary of Housing and Urban Development to work
22 with appropriate entities to organize and hold renew-
23 able energy expositions that provide an opportunity
24 for the public to view and learn about renewable en-

1 ergy products for the home that are currently on the
2 market.

3 “(4) AUTHORIZATION OF APPROPRIATIONS.—
4 There is authorized to be appropriated to the Sec-
5 retary to carry out this subsection \$5,000,000 for
6 each of fiscal years 2010 through 2014.”.

7 **SEC. 290. COLLECTION OF INFORMATION ON ENERGY-EFFI-**
8 **CIENT AND LOCATION-EFFICIENT MORT-**
9 **GAGES THROUGH HOME MORTGAGE DISCLO-**
10 **SURE ACT.**

11 (a) IN GENERAL.—Section 304(b) of the Home Mort-
12 gage Disclosure Act of 1975 (12 U.S.C. 2803(b)) is
13 amended—

14 (1) in paragraph (3), by striking “and” at the
15 end;

16 (2) in paragraph (4), by striking the period at
17 the end and inserting a semicolon; and

18 (3) by adding at the end the following new
19 paragraphs:

20 “(5) the number and dollar amount of mort-
21 gage loans for single-family housing and for multi-
22 family housing that are energy-efficient mortgages
23 (as such term is defined in section 1335 of Housing
24 and Community Development Act of 1992); and

1 “(6) the number and dollar amount of mort-
2 gage loans for single-family housing and for multi-
3 family housing that are location-efficient mortgages
4 (as such term is defined in section 1335 of Housing
5 and Community Development Act of 1992).”.

6 (b) **APPLICABILITY.**—The amendment made by sub-
7 section (a) shall apply with respect to the first calendar
8 year that begins after the expiration of the 30-day period
9 beginning on the date of the enactment of this Act.

10 **SEC. 291. ENSURING AVAILABILITY OF HOMEOWNERS IN-**
11 **SURANCE FOR HOMES NOT CONNECTED TO**
12 **ELECTRICITY GRID.**

13 (a) **CONGRESSIONAL INTENT.**—The Congress intends
14 that—

15 (1) consumers shall not be denied homeowners
16 insurance for a dwelling (as such term is defined in
17 subsection (c)) based solely on the fact that the
18 dwelling is not connected to or able to receive elec-
19 tricity service from any wholesale or retail electric
20 power provider;

21 (2) States should ensure that consumers are
22 able to obtain homeowners insurance for such dwell-
23 ings;

24 (3) States should support insurers that develop
25 voluntary incentives to provide such insurance; and

1 (4) States may not prohibit insurers from offer-
2 ing a homeowners insurance product specifically de-
3 signed for such dwellings.

4 (b) **INSURING HOMES AND RELATED PROPERTY IN**
5 **INDIAN AREAS.**—Notwithstanding any other provision of
6 law, dwellings located in Indian areas (as such term is de-
7 fined in section 4 of the Native American Housing Assist-
8 ance and Self-Determination Act of 1996 (25 U.S.C.
9 4103)) and constructed or maintained using assistance,
10 loan guarantees, or other authority under the Native
11 American Housing Assistance and Self-Determination Act
12 of 1996 may be insured by any tribally owned self-insur-
13 ance risk pool approved by the Secretary of Housing and
14 Urban Development.

15 (c) **DWELLING.**—For purposes of this section, the
16 term “dwelling” means a residential structure that—

17 (1) consists of one to four dwelling units;

18 (2) is provided electricity from renewable en-
19 ergy sources; and

20 (3) is not connected to any wholesale or retail
21 electrical power grid.

22 **SEC. 292. MORTGAGE INCENTIVES FOR ENERGY-EFFICIENT**
23 **MULTIFAMILY HOUSING.**

24 (a) **IN GENERAL.**—The Secretary of Housing and
25 Urban Development shall establish incentives for increas-

1 ing the energy efficiency of multifamily housing that is
2 subject to a mortgage to be insured under title II of the
3 National Housing Act (12 U.S.C. 1707 et seq.) so that
4 the housing meets the energy efficiency standards under
5 section 284(a) of this subtitle and incentives to encourage
6 compliance of such housing with the energy efficiency and
7 conservation standards, and the green building standards,
8 under section 284(b) of this subtitle, to the extent that
9 such incentives are based on the impact that savings on
10 utility costs has on the operating costs of the housing, as
11 determined by the Secretary.

12 (b) INCENTIVES.—Such incentives may include, for
13 any such multifamily housing that complies with the en-
14 ergy efficiency standards under section 284(a)—

15 (1) providing a discount on the chargeable pre-
16 miums for the mortgage insurance for such housing
17 from the amount otherwise chargeable for such
18 mortgage insurance;

19 (2) allowing mortgages to exceed the dollar
20 amount limits otherwise applicable under law to the
21 extent such additional amounts are used to finance
22 improvements or measures designed to meet the
23 standards referred to in subsection (a); and

1 (3) reducing the amount that the owner of such
2 multifamily housing meeting the standards referred
3 to in subsection (a) is required to contribute.

4 **SEC. 293. ENERGY-EFFICIENT CERTIFICATIONS FOR MANU-**
5 **FACTURED HOUSING WITH MORTGAGES.**

6 Section 526 of the National Housing Act (12 U.S.C.
7 1735f-4(a)) is amended—

8 (1) in subsection (a)—

9 (A) by striking “, other than manufactured
10 homes,” each place such term appears;

11 (B) by inserting after the period at the end
12 the following: “The energy performance require-
13 ments developed and established by the Sec-
14 retary under this section for manufactured
15 homes shall require energy star rating for wall
16 fixtures, appliances, and equipment in such
17 housing.”;

18 (C) by inserting “(1)” after “(a)”; and

19 (D) by adding at the end the following new
20 paragraphs:

21 “(2) The Secretary shall require, with respect to any
22 single- or multi-family residential housing subject to a
23 mortgage insured under this Act, that any approval or cer-
24 tification of the housing for meeting any energy efficiency
25 or conservation criteria, standards, or requirements pursu-

1 ant to this title and any approval or certification required
2 pursuant to this title with respect to energy-conserving im-
3 provements or any renewable energy sources, such as
4 wind, solar energy geothermal, or biomass, shall be con-
5 ducted only by an individual certified by a home energy
6 rating system provider who has been accredited to conduct
7 such ratings by the Home Energy Ratings System Coun-
8 cil, the Residential Energy Services Network, or such
9 other appropriate national organization, as the Secretary
10 may provide, or by licensed professional architect or engi-
11 neer. If any organization makes a request to the Secretary
12 for approval to accredit individuals to conduct energy effi-
13 ciency or conservation ratings, the Secretary shall review
14 and approve or disapprove such request not later than the
15 expiration of the 6-month period beginning upon receipt
16 of such request.

17 “(3) The Secretary shall periodically examine the
18 method used to conduct inspections for compliance with
19 the requirements under this section, analyze various other
20 approaches for conducting such inspections, and review
21 the costs and benefits of the current method compared
22 with other methods.”; and

23 (2) in subsection (b), by striking “, other than
24 a manufactured home,”.

1 **SEC. 294. ASSISTED HOUSING ENERGY LOAN PILOT PRO-**
2 **GRAM.**

3 (a) **AUTHORITY.**—Not later than the expiration of
4 the 12-month period beginning on the date of the enact-
5 ment of this Act, the Secretary shall develop and imple-
6 ment a pilot program under this section to facilitate the
7 financing of cost-effective capital improvements for cov-
8 ered assisted housing projects to improve the energy effi-
9 ciency and conservation of such projects.

10 (b) **LOANS.**—The pilot program under this section
11 shall involve not less than three and not more than five
12 lenders, and shall provide for a privately financed loan to
13 be made for a covered assisted housing project, which
14 shall—

15 (1) finance capital improvements for the project
16 that meet such requirements as the Secretary shall
17 establish, and may involve contracts with third par-
18 ties to perform such capital improvements, including
19 the design of such improvements by licensed profes-
20 sional architects or engineers;

21 (2) have a term to maturity of not more than
22 20 years, which shall be based upon the duration
23 necessary to realize cost savings sufficient to repay
24 the loan;

1 (3) be secured by a mortgage subordinate to the
2 mortgage for the project that is insured under the
3 National Housing Act; and

4 (4) provide for a reduction in the remaining
5 principal obligation under the loan based on the ac-
6 tual resulting cost savings realized from the capital
7 improvements financed with the loan.

8 (c) UNDERWRITING STANDARDS.—The Secretary
9 shall establish underwriting requirements for loans made
10 under the pilot program under this section, which shall—

11 (1) require the cost savings projected to be real-
12 ized from the capital improvements financed with
13 the loan, during the term of the loan, to exceed the
14 costs of repaying the loan;

15 (2) allow the designer or contractor involved in
16 designing capital improvements to be financed with
17 a loan under the program to carry out such capital
18 improvements; and

19 (3) include such energy, audit, property, finan-
20 cial, ownership, and approval requirements as the
21 Secretary considers appropriate.

22 (d) TREATMENT OF SAVINGS.—The pilot program
23 under this section shall provide that the project owner
24 shall receive the full financial benefit from any reduction

1 in the cost of utilities resulting from capital improvements
2 financed with a loan made under the program.

3 (e) COVERED ASSISTED HOUSING PROJECTS.—For
4 purposes of this section, the term “covered assisted hous-
5 ing project” means a housing project that—

6 (1) is financed by a loan or mortgage that is—

7 (A) insured by the Secretary under—

8 (i) subsection (d)(3) of section 221 of
9 the National Housing Act (12 U.S.C.
10 1715l), and bears interest at a rate deter-
11 mined under the proviso of section
12 221(d)(5) of such Act; or

13 (ii) subsection (d)(4) of such section
14 221.

15 (B) insured or assisted under section 236
16 of the National Housing Act (12 U.S.C. 1715z-
17 1);

18 (2) at the time a loan under this section is
19 made, is provided project-based rental assistance
20 under section 8 of the United States Housing Act of
21 1937 (42 U.S.C. 1437f) for 50 percent or more of
22 the dwelling units in the project; and

23 (3) is not a housing project owned or held by
24 the Secretary, or subject to a mortgage held by the
25 Secretary.

1 **SEC. 295. MAKING IT GREEN.**

2 (a) PARTNERSHIPS WITH TREE-PLANTING ORGANI-
3 ZATIONS.—The Secretary shall establish and provide in-
4 centives for developers of housing for which any HUD fi-
5 nancial assistance, as determined by the Secretary, is pro-
6 vided for development, maintenance, operation, or other
7 costs, to enter into agreements and partnerships with tree-
8 planting organizations, nurseries, and landscapers to cer-
9 tify that trees, shrubs, grasses, and other plants are plant-
10 ed in the proper manner, are provided adequate mainte-
11 nance, and survive for at least 3 years after planting or
12 are replaced. The financial assistance determined by the
13 Secretary as eligible under this section shall take into con-
14 sideration such factors as cost effectiveness and afford-
15 ability.

16 (b) MAKING IT GREEN PLAN.—In the case of any
17 new or substantially rehabilitated housing for which HUD
18 financial assistance, as determined in accordance with
19 subsection (a), is provided by the Secretary for the devel-
20 opment, construction, maintenance, rehabilitation, im-
21 provement, operation, or costs of the housing, including
22 financial assistance provided through the Community De-
23 velopment Block Grant program under title I of the Hous-
24 ing and Community Development Act of 1974 (42 U.S.C.
25 5301 et seq.), the Secretary shall require the development
26 of a plan that provides for—

1 (1) in the case of new construction and im-
2 provements, siting of such housing and improve-
3 ments in a manner that provides for energy effi-
4 ciency and conservation to the extent feasible, taking
5 into consideration location and project type;

6 (2) minimization of the effects of construction,
7 rehabilitation, or other development on the condition
8 of existing trees;

9 (3) selection and installation of indigenous
10 trees, shrubs, grasses, and other plants based upon
11 applicable design guidelines and standards of the
12 International Society for Arboriculture;

13 (4) post-planting care and maintenance of the
14 landscaping relating to or affected by the housing in
15 accordance with best management practices; and

16 (5) establishment of a goal for minimum
17 greenspace or tree canopy cover for the housing site
18 for which such financial assistance is provided, in-
19 cluding guidelines and timetables within which to
20 achieve compliance with such minimum require-
21 ments.

22 (c) PARTNERSHIPS.—In carrying out this section, the
23 Secretary is encouraged to consult, as appropriate, with
24 national organizations dedicated to providing housing as-
25 sistance and related services to low-income families, such

1 as the Alliance for Community Trees and its affiliates, the
2 American Nursery and Landscape Association, the Amer-
3 ican Society of Landscape Architects, and the National
4 Arbor Day Foundation.

5 **SEC. 296. RESIDENTIAL ENERGY EFFICIENCY BLOCK**
6 **GRANT PROGRAM.**

7 Title I of the Housing and Community Development
8 Act of 1974 (42 U.S.C. 5301 et seq.) is amended by add-
9 ing at the end the following new section:

10 **“SEC. 123. RESIDENTIAL ENERGY EFFICIENCY BLOCK**
11 **GRANT PROGRAM.**

12 “(a) IN GENERAL.—To the extent amounts are made
13 available for grants under this section, the Secretary shall
14 make grants under this section to States, metropolitan cit-
15 ies and urban counties, Indian tribes, and insular areas
16 to carry out energy efficiency improvements in new and
17 existing single-family and multifamily housing.

18 “(b) ALLOCATIONS.—

19 “(1) IN GENERAL.—Of the total amount made
20 available for each fiscal year for grants under this
21 section that remains after reserving amounts pursu-
22 ant to paragraph (2), the Secretary shall allocate for
23 insular areas, for metropolitan cities and urban
24 counties, and for States, an amount that bears the
25 same ratio to such total amount as the amount allo-

1 cated for such fiscal year under section 106 for In-
2 dian tribes, for insular areas, for metropolitan cities
3 and urban counties, and for States, respectively,
4 bears to the total amount made available for such
5 fiscal year for grants under section 106.

6 “(2) SET ASIDE FOR INDIAN TRIBES.—Of the
7 total amount made available for each fiscal year for
8 grants under this section, the Secretary shall allo-
9 cate not less than 1 percent to Indian tribes.

10 “(c) GRANT AMOUNTS.—

11 “(1) ENTITLEMENT COMMUNITIES.—From the
12 amounts allocated pursuant to subsection (b) for
13 metropolitan cities and urban counties for each fiscal
14 year, the Secretary shall make a grant for such fis-
15 cal year to each metropolitan city and urban county
16 that complies with the requirement under subsection
17 (d), in the amount that bears the same ratio such
18 total amount so allocated as the amount of the grant
19 for such fiscal year under section 106 for such met-
20 ropolitan city or urban county bears to the aggre-
21 gate amount of all grants for such fiscal year under
22 section 106 for all metropolitan cities and urban
23 counties.

24 “(2) STATES.—From the amounts allocated
25 pursuant to subsection (b) for States for each fiscal

1 year, the Secretary shall make a grant for such fis-
2 cal year to each State that complies with the re-
3 quirement under subsection (d), in the amount that
4 bears the same ratio such total amount so allocated
5 as the amount of the grant for such fiscal year
6 under section 106 for such State bears to the aggre-
7 gate amount of all grants for such fiscal year under
8 section 106 for all States. Grant amounts received
9 by a State shall be used only for eligible activities
10 under subsection (e) carried out in nonentitlement
11 areas of the State.

12 “(3) INDIAN TRIBES.—From the amounts allo-
13 cated pursuant to subsection (b) for Indian tribes,
14 the Secretary shall make grants to Indian tribes that
15 comply with the requirement under subsection (d) on
16 the basis of a competition conducted pursuant to
17 specific criteria, as the Secretary shall establish by
18 regulation, for the selection of Indian tribes to re-
19 ceive such amount.

20 “(4) INSULAR AREAS.—From the amounts allo-
21 cated pursuant to subsection (b) for insular areas,
22 the Secretary shall make a grant to each insular
23 area that complies with the requirement under sub-
24 section (d) on the basis of the ratio of the population
25 of the insular area to the aggregate population of all

1 insular areas. In determining the distribution of
2 amounts to insular areas, the Secretary may also in-
3 clude other statistical criteria as data become avail-
4 able from the Bureau of Census of the Department
5 of Labor, but only if such criteria are set forth by
6 regulation issued after notice and an opportunity for
7 comment.

8 “(d) STATEMENT OF ACTIVITIES.—

9 “(1) REQUIREMENT.—Before receipt the re-
10 ceipt in any fiscal year of a grant under subsection
11 (c) by any grantee, the grantee shall have prepared
12 a final statement of housing energy efficiency objec-
13 tives and projected use of funds as the Secretary
14 shall require and shall have provided the Secretary
15 with such certifications regarding such objectives
16 and use as the Secretary may require. In the case
17 of metropolitan cities, urban counties, units of gen-
18 eral local government, and insular areas receiving
19 grants, the statement of projected use of funds shall
20 consist of proposed housing energy efficiency activi-
21 ties. In the case of States receiving grants, the state-
22 ment of projected use of funds shall consist of the
23 method by which the States will distribute funds to
24 units of general local government.

1 “(2) PUBLIC PARTICIPATION.—The Secretary
2 may establish requirements to ensure the public
3 availability of information regarding projected use of
4 grant amounts and public participation in deter-
5 mining such projected use.

6 “(e) ELIGIBLE ACTIVITIES.—

7 “(1) REQUIREMENT.—Amounts from a grant
8 under this section may be used only to carry out ac-
9 tivities for single-family or multifamily housing that
10 are designed to improve the energy efficiency of the
11 housing so that the housing complies with the en-
12 ergy efficiency standards under section 284(a) of the
13 Green Resources for Energy Efficient Neighbor-
14 hoods Act of 2009, including such activities to pro-
15 vide energy for such housing from renewable
16 sources, such as wind, waves, solar, biomass, and
17 geothermal sources.

18 “(2) PREFERENCE FOR COMPLIANCE BEYOND
19 BASIC REQUIREMENTS.—In selecting activities to be
20 funded with amounts from a grant under this sec-
21 tion, a grantee shall give more preference to activi-
22 ties based on the extent to which the activities will
23 result in compliance by the housing with the en-
24 hanced energy efficiency and conservation standards,

1 and the green building standards, under section
2 284(b) of such Act.

3 “(f) REPORTS.—Each grantee of a grant under this
4 section for a fiscal year shall submit to the Secretary, at
5 a time determined by the Secretary, a performance and
6 evaluation report concerning the use of grant amounts,
7 which shall contain an assessment by the grantee of the
8 relationship of such use to the objectives identified in the
9 grantees statement under subsection (d).

10 “(g) APPLICABILITY OF CDBG PROVISIONS.—Sec-
11 tions 109, 110, and 111 of the Housing and Community
12 Development Act of 1974 (42 U.S.C. 5309, 5310, 5311)
13 shall apply to assistance received under this section to the
14 same extent and in the same manner that such sections
15 apply to assistance received under title I of such Act.

16 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
17 is authorized to be appropriated for grants under this sec-
18 tion \$2,500,000,000 for fiscal year 2010 and such sums
19 as may be necessary for each fiscal year thereafter.”.

1 **SEC. 297. INCLUDING SUSTAINABLE DEVELOPMENT AND**
2 **TRANSPORTATION STRATEGIES IN COM-**
3 **PREHENSIVE HOUSING AFFORDABILITY**
4 **STRATEGIES.**

5 Section 105(b) of the Cranston-Gonzalez National
6 Affordable Housing Act (42 U.S.C. 12705(b)) is amend-
7 ed—

8 (1) by striking “and” at the end of paragraph
9 (19);

10 (2) by striking the period at the end of para-
11 graph (20) and inserting “; and”;

12 (3) and by inserting after paragraph (20) the
13 following new paragraphs:

14 “(21) describe the jurisdiction’s strategies to
15 encourage sustainable development for affordable
16 housing, including single-family and multifamily
17 housing, as measured by—

18 “(A) greater energy efficiency and use of
19 renewable energy sources, including any strate-
20 gies regarding compliance with the energy effi-
21 ciency standards under section 284(a) of the
22 Green Resources for Energy Efficient Neigh-
23 borhoods Act of 2009 and with the enhanced
24 energy efficiency and conservation standards,
25 and the green building standards, under section
26 284(b) of such Act;

1 “(B) increased conservation, recycling, and
2 reuse of resources;

3 “(C) more effective use of existing infra-
4 structure;

5 “(D) use of building materials and meth-
6 ods that are healthier for residents of the hous-
7 ing, including use of building materials that are
8 free of added known carcinogens that are classi-
9 fied as Group 1 Known Carcinogens by the
10 International Agency for Research on Cancer;
11 and

12 “(E) such other criteria as the Secretary
13 determines, in consultation with the Secretary
14 of Energy, the Secretary of Agriculture, and the
15 Administrator of the Environmental Protection
16 Agency, are in accordance with the purposes of
17 this paragraph; and

18 “(22) describe the jurisdiction’s efforts to co-
19 ordinate its housing strategy with its transportation
20 planning strategies to ensure to the extent prac-
21 ticable that residents of affordable housing have ac-
22 cess to public transportation.”.

1 **SEC. 298. GRANT PROGRAM TO INCREASE SUSTAINABLE**
2 **LOW-INCOME COMMUNITY DEVELOPMENT**
3 **CAPACITY.**

4 (a) IN GENERAL.—The Secretary may make grants
5 to nonprofit organizations to use for any of the following
6 purposes:

7 (1) Training, educating, supporting, or advising
8 an eligible community development organization or
9 qualified youth service and conservation corps in im-
10 proving energy efficiency, resource conservation and
11 reuse, design strategies to maximize energy effi-
12 ciency, installing or constructing renewable energy
13 improvements (such as wind, wave, solar, biomass,
14 and geothermal energy sources), and effective use of
15 existing infrastructure in affordable housing and
16 economic development activities in low-income com-
17 munities, taking into consideration energy efficiency
18 standards under section 284(a) of this subtitle and
19 with the enhanced energy efficiency and conservation
20 standards, and the green building standards, under
21 section 284(b) of this subtitle.

22 (2) Providing loans, grants, or predevelopment
23 assistance to eligible community development organi-
24 zations or qualified youth service and conservation
25 corps to carry out energy efficiency improvements
26 that comply with the energy efficiency standards

1 under section 284(a) of this subtitle, resource con-
2 servation and reuse, and effective use of existing in-
3 frastructure in affordable housing and economic de-
4 velopment activities in low-income communities. In
5 providing assistance under this paragraph, the Sec-
6 retary shall give more preference to activities based
7 on the extent to which the activities will result in
8 compliance with the enhanced energy efficiency and
9 conservation standards, and the green building
10 standards, under section 284(b) of this subtitle.

11 (3) Such other purposes as the Secretary deter-
12 mines are in accordance with the purposes of this
13 subsection.

14 (b) APPLICATION REQUIREMENT.—To be eligible for
15 a grant under this section, a nonprofit organization shall
16 prepare and submit to the Secretary an application at
17 such time, in such manner, and containing such informa-
18 tion as the Secretary may require.

19 (c) AWARD OF CONTRACTS.—Contracts for architec-
20 tural or engineering services funded with amounts from
21 grants made under this section shall be awarded in accord-
22 ance with chapter 11 of title 40, United States Code (re-
23 lating to selection of architects and engineers).

24 (d) MATCHING REQUIREMENT.—A grant made under
25 this section may not exceed the amount that the nonprofit

1 organization receiving the grant certifies, to the Secretary,
2 will be provided (in cash or in-kind) from nongovernmental
3 sources to carry out the purposes for which the grant is
4 made.

5 (e) DEFINITIONS.—For purposes of this section, the
6 following definitions shall apply:

7 (1) The term “nonprofit organization” has the
8 meaning given such term in section 104 of the Cran-
9 ston-Gonzalez National Affordable Housing Act (42
10 U.S.C. 12704).

11 (2) The term “eligible community development
12 organization” means—

13 (A) a unit of general local government (as
14 defined in section 104 of the Cranston-Gonzalez
15 National Affordable Housing Act (42 U.S.C.
16 12704));

17 (B) a community housing development or-
18 ganization (as defined in section 104 of the
19 Cranston-Gonzalez National Affordable Hous-
20 ing Act (42 U.S.C. 12704));

21 (C) an Indian tribe or tribally designated
22 housing entity (as such terms are defined in
23 section 4 of the Native American Housing As-
24 sistance and Self-Determination Act of 1996
25 (25 U.S.C. 4103)); or

1 (D) a public housing agency, as such term
2 is defined in section 3(b) of the United States
3 Housing Act of 1937 (42 U.S.C. 1437(b)).

4 (3) The term “low-income community” means a
5 census tract in which 50 percent or more of the
6 households have an income which is less than 80
7 percent of the greater of—

8 (A) the median gross income for such year
9 for the area in which such census tract is lo-
10 cated; or

11 (B) the median gross income for such year
12 for the State in which such census tract is lo-
13 cated.

14 (f) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the Secretary to carry
16 out this section \$10,000,000 for each of fiscal years 2010
17 through 2014.

18 **SEC. 299. HOPE VI GREEN DEVELOPMENTS REQUIREMENT.**

19 (a) MANDATORY COMPONENT.—Section 24(e) of the
20 United States Housing Act of 1937 (42 U.S.C. 1437v(e))
21 is amended by adding at the end the following new para-
22 graph:

23 “(4) GREEN DEVELOPMENTS REQUIREMENT.—

24 “(A) REQUIREMENT.—The Secretary may
25 not make a grant under this section to an appli-

1 cant unless the proposed revitalization plan of
2 the applicant to be carried out with such grant
3 amounts meets the following requirements:

4 “(i) GREEN COMMUNITIES CRITERIA
5 CHECKLIST.—All residential construction
6 under the proposed plan complies with the
7 national Green Communities criteria
8 checklist for residential construction that
9 provides criteria for the design, develop-
10 ment, and operation of affordable housing,
11 as such checklist is in effect for purposes
12 of this paragraph pursuant to subpara-
13 graph (D) at the date of the application
14 for the grant, or any substantially equiva-
15 lent standard or standards as determined
16 by the Secretary, as follows:

17 “(I) The proposed plan shall
18 comply with all items of the national
19 Green Communities criteria checklist
20 for residential construction that are
21 identified as mandatory.

22 “(II) The proposed plan shall
23 comply with such other nonmandatory
24 items of such national Green Commu-
25 nities criteria checklist so as to result

1 in a cumulative number of points at-
2 tributable to such nonmandatory
3 items under such checklist of not less
4 than—

5 “(aa) 25 points, in the case
6 of any proposed plan (or portion
7 thereof) consisting of new con-
8 struction; and

9 “(bb) 20 points, in the case
10 of any proposed plan (or portion
11 thereof) consisting of rehabilita-
12 tion.

13 “(ii) GREEN BUILDINGS CERTIFI-
14 CATION SYSTEM.—All nonresidential con-
15 struction under the proposed plan complies
16 with all minimum required levels of the
17 green building rating systems and levels
18 identified by the Secretary pursuant to
19 subparagraph (C), as such systems and
20 levels are in effect for purposes of this
21 paragraph pursuant to subparagraph (D)
22 at the time of the application for the
23 grant.

24 “(B) VERIFICATION.—

1 “(i) IN GENERAL.—The Secretary
2 shall verify, or provide for verification, suf-
3 ficient to ensure that each proposed re-
4 vitalization plan carried out with amounts
5 from a grant under this section complies
6 with the requirements under subparagraph
7 (A) and that the revitalization plan is car-
8 ried out in accordance with such require-
9 ments and plan.

10 “(ii) TIMING.—In providing for such
11 verification, the Secretary shall establish
12 procedures to ensure such compliance with
13 respect to each grantee, and shall report to
14 the Congress with respect to the compli-
15 ance of each grantee, at each of the fol-
16 lowing times:

17 “(I) Not later than 6 months
18 after execution of the grant agreement
19 under this section for the grantee.

20 “(II) Upon completion of the re-
21 vitalization plan of the grantee.

22 “(C) IDENTIFICATION OF GREEN BUILD-
23 INGS RATING SYSTEMS AND LEVELS.—

24 “(i) IN GENERAL.—For purposes of
25 this paragraph, the Secretary shall identify

1 rating systems and levels for green build-
2 ings that the Secretary determines to be
3 the most likely to encourage a comprehen-
4 sive and environmentally sound approach
5 to ratings and standards for green build-
6 ings. The identification of the ratings sys-
7 tems and levels shall be based on the cri-
8 teria specified in clause (ii), shall identify
9 the highest levels the Secretary determines
10 are appropriate above the minimum levels
11 required under the systems selected. With-
12 in 90 days of the completion of each study
13 required by clause (iii), the Secretary shall
14 review and update the rating systems and
15 levels, or identify alternative systems and
16 levels for purposes of this paragraph, tak-
17 ing into account the conclusions of such
18 study.

19 “(ii) CRITERIA.—In identifying the
20 green rating systems and levels, the Sec-
21 retary shall take into consideration—

22 “(I) the ability and availability of
23 assessors and auditors to independ-
24 ently verify the criteria and measure-

1 ment of metrics at the scale necessary
2 to implement this paragraph;

3 “**(II)** the ability of the applicable
4 ratings system organizations to collect
5 and reflect public comment;

6 “**(III)** the ability of the standards
7 to be developed and revised through a
8 consensus-based process;

9 “**(IV)** An evaluation of the
10 robustness of the criteria for a high-
11 performance green building, which
12 shall give credit for promoting—

13 “(aa) efficient and sustain-
14 able use of water, energy, and
15 other natural resources;

16 “(bb) use of renewable en-
17 ergy sources;

18 “(cc) improved indoor and
19 outdoor environmental quality
20 through enhanced indoor and
21 outdoor air quality, thermal com-
22 fort, acoustics, outdoor noise pol-
23 lution, day lighting, pollutant
24 source control, sustainable land-
25 scaping, and use of building sys-

1 tem controls and low- or no-emis-
2 sion materials, including pref-
3 erence for materials with no
4 added carcinogens that are classi-
5 fied as Group 1 Known Carcino-
6 gens by the International Agency
7 for Research on Cancer; and

8 “*(dd)* such other criteria as
9 the Secretary determines to be
10 appropriate; and

11 “*(V)* national recognition within
12 the building industry.

13 “*(iii)* 5-YEAR EVALUATION.—At least
14 once every 5 years, the Secretary shall con-
15 duct a study to evaluate and compare
16 available third-party green building rating
17 systems and levels, taking into account the
18 criteria listed in clause *(ii)*.

19 “*(D)* APPLICABILITY AND UPDATING OF
20 STANDARDS.—

21 “*(i)* APPLICABILITY.—Except as pro-
22 vided in clause *(ii)* of this subparagraph,
23 the national Green Communities criteria
24 checklist and green building rating systems
25 and levels referred to in clauses *(i)* and *(ii)*

1 of subparagraph (A) that are in effect for
2 purposes of this paragraph are such check-
3 list systems, and levels as in existence
4 upon the date of the enactment of the
5 Green Resources for Energy Efficient
6 Neighborhoods Act of 2009.

7 “(ii) UPDATING.—The Secretary may,
8 by regulation, adopt and apply, for pur-
9 poses of this paragraph, future amend-
10 ments and supplements to, and editions of,
11 the national Green Communities criteria
12 checklist, any standard or standards that
13 the Secretary has determined to be sub-
14 stantially equivalent to such checklist, and
15 the green building ratings systems and lev-
16 els identified by the Secretary pursuant to
17 subparagraph (C).”.

18 (b) SELECTION CRITERIA; GRADED COMPONENT.—
19 Section 24(e)(2) of the United States Housing Act of
20 1937 (42 U.S.C. 1437v(e)(2)) is amended—

21 (1) in subparagraph (K), by striking “and” at
22 the end;

23 (2) by redesignating subparagraph (L) as sub-
24 paragraph (M); and

1 (3) by inserting after subparagraph (K) the fol-
2 lowing new subparagraph:

3 “(L) the extent to which the proposed re-
4 talization plan—

5 “(i) in the case of residential con-
6 struction, complies with the nonmandatory
7 items of the national Green Communities
8 criteria checklist identified in paragraph
9 (4)(A)(i), or any substantially equivalent
10 standard or standards as determined by
11 the Secretary, but only to the extent such
12 compliance exceeds the compliance nec-
13 essary to accumulate the number of points
14 required under such paragraph; and

15 “(ii) in the case of nonresidential con-
16 struction, complies with the components of
17 the green building rating systems and lev-
18 els identified by the Secretary pursuant to
19 paragraph (4)(C), but only to the extent
20 such compliance exceeds the minimum level
21 required under such systems and levels;
22 and”.

1 **SEC. 299A. CONSIDERATION OF ENERGY EFFICIENCY IM-**
2 **PROVEMENTS IN APPRAISALS.**

3 (a) APPRAISALS IN CONNECTION WITH FEDERALLY
4 RELATED TRANSACTIONS.—

5 (1) REQUIREMENT.—Section 1110 of the Fi-
6 nancial Institutions Reform, Recovery, and Enforce-
7 ment Act of 1989 (12 U.S.C. 3339) is amended—

8 (A) in paragraph (1), by striking “and” at
9 the end;

10 (B) by redesignating paragraph (2) as
11 paragraph (3); and

12 (C) by inserting after paragraph (1) the
13 following new paragraph:

14 “(2) that such appraisals be performed in ac-
15 cordance with appraisal standards that require, in
16 determining the value of a property, consideration of
17 any renewable energy sources for, or energy effi-
18 ciency or energy-conserving improvements or fea-
19 tures of, the property; and”.

20 (2) REVISION OF APPRAISAL STANDARDS.—

21 Each Federal financial institutions regulatory agen-
22 cy shall, not later than 6 months after the date of
23 the enactment of this Act, revise its standards for
24 the performance of real estate appraisals in connec-
25 tion with federally related transactions under the ju-
26 risdiction of the agency to comply with the require-

1 ment under the amendments made by paragraph (1)
2 of this subsection.

3 (b) APPRAISER CERTIFICATION AND LICENSING RE-
4 QUIREMENTS.—Section 1116 of the Financial Institutions
5 Reform, Recovery, and Enforcement Act of 1989 (12
6 U.S.C. 3345) is amended—

7 (1) in subsection (a), by inserting before the pe-
8 riod at the end the following: “, and meets the re-
9 quirements established pursuant to subsection (f) for
10 qualifications regarding consideration of any renew-
11 able energy sources for, or energy efficiency or en-
12 ergy-conserving improvements or features of, the
13 property”;

14 (2) in subsection (c), by inserting before the pe-
15 riod at the end the following: “, which shall include
16 compliance with the requirements established pursu-
17 ant to subsection (f) regarding consideration of any
18 renewable energy sources for, or energy efficiency or
19 energy-conserving improvements or features of, the
20 property”;

21 (3) in subsection (e), by striking “The” and in-
22 serting “Except as provided in subsection (f), the”;
23 and

24 (4) by adding at the end the following new sub-
25 section:

1 “(f) REQUIREMENTS FOR APPRAISERS REGARDING
2 ENERGY EFFICIENCY FEATURES.—The Appraisal Sub-
3 committee shall establish requirements for State certifi-
4 cation of State certified real estate appraisers and for
5 State licensing of State licensed appraisers, to ensure that
6 appraisers consider and are qualified to consider, in deter-
7 mining the value of a property, any renewable energy
8 sources for, or energy efficiency or energy-conserving im-
9 provements or features of, the property.”.

10 (c) GUIDELINES FOR APPRAISING PHOTOVOLTAIC
11 MEASURES AND TRAINING OF APPRAISERS.—Section
12 1122 of the Financial Institutions Reform, Recovery, and
13 Enforcement Act of 1989 (12 U.S.C. 3351) is amended
14 by adding at the end the following new subsection:

15 “(g) GUIDELINES FOR APPRAISING PHOTOVOLTAIC
16 MEASURES AND TRAINING OF APPRAISERS.—The Ap-
17 praisal Subcommittee shall, in consultation with the Sec-
18 retary of Housing and Urban Development, the Federal
19 National Mortgage Association, and the Federal Home
20 Loan Mortgage Corporation, establish specific guidelines
21 for—

22 “(1) appraising off- and on-grid photovoltaic
23 measures for compliance with the appraisal stand-
24 ards prescribed pursuant to section 1110(2);

1 “(2) requirements under section 1116(f) for
2 certification of State certified real estate appraisers
3 and for State licensing of State licensed appraisers,
4 to ensure that appraisers consider, and are qualified
5 to consider, such photovoltaic measures in deter-
6 mining the value of a property; and

7 “(3) training of appraisers to meet the require-
8 ments established pursuant to paragraph (2) of this
9 subsection.”.

10 **SEC. 299B. HOUSING ASSISTANCE COUNCIL.**

11 The Secretary shall require the Housing Assistance
12 Council—

13 (1) to encourage each organization that receives
14 assistance from the Council with any amounts made
15 available from the Secretary to provide that any
16 structures and buildings developed or assisted under
17 projects, programs, and activities funded with such
18 amounts complies with the energy efficiency stand-
19 ards under section 284(a) of this subtitle; and

20 (2) to establish incentives to encourage each
21 such organization to provide that any such struc-
22 tures and buildings comply with the energy effi-
23 ciency and conservation standards, and the green
24 building standards, under section 284(b) of such
25 Act.

1 **SEC. 299C. RURAL HOUSING AND ECONOMIC DEVELOP-**
2 **MENT ASSISTANCE.**

3 The Secretary shall—

4 (1) require each tribe, agency, organization,
5 corporation, and other entity that receives any as-
6 sistance from the Office of Rural Housing and Eco-
7 nomic Development of the Department of Housing
8 and Urban Development to provide that any struc-
9 tures and buildings developed or assisted under ac-
10 tivities funded with such amounts complies with the
11 energy efficiency standards under section 284(a) of
12 this subtitle; and

13 (2) establish incentives to encourage each such
14 tribe, agency, organization, corporation, and other
15 entity to provide that any such structures and build-
16 ings comply with the enhanced energy efficiency and
17 conservation standards, and the green building
18 standards, under section 284(b) of such Act.

19 **SEC. 299D. LOANS TO STATES AND INDIAN TRIBES TO**
20 **CARRY OUT RENEWABLE ENERGY SOURCES**
21 **ACTIVITIES.**

22 (a) **ESTABLISHMENT OF FUND.**—There is estab-
23 lished in the Treasury of the United States a fund, to be
24 known as the “Alternative Energy Sources State Loan
25 Fund”.

26 (b) **EXPENDITURES.**—

1 (1) IN GENERAL.—Subject to paragraph (2), on
2 request by the Secretary, the Secretary of the Treas-
3 ury shall transfer from the Fund to the Secretary
4 such amounts as the Secretary determines are nec-
5 essary to provide loans under subsection (c)(1).

6 (2) ADMINISTRATIVE EXPENSES.—Of the
7 amounts in the Fund, not more than 5 percent shall
8 be available for each fiscal year to pay the adminis-
9 trative expenses of the Department of Housing and
10 Urban Development to carry out this section.

11 (c) LOANS TO STATES AND INDIAN TRIBES.—

12 (1) IN GENERAL.—The Secretary shall use
13 amounts in the Fund to provide loans to States and
14 Indian tribes to provide incentives to owners of sin-
15 gles-family and multifamily housing, commercial
16 properties, and public buildings to provide—

17 (A) renewable energy sources for such
18 structures, such as wind, wave, solar, biomass,
19 or geothermal energy sources, including incen-
20 tives to companies and business to change their
21 source of energy to such renewable energy
22 sources and for changing the sources of energy
23 for public buildings to such renewable energy
24 sources;

1 (B) energy efficiency and energy con-
2 serving improvements and features for such
3 structures; or

4 (C) infrastructure related to the delivery of
5 electricity and hot water for structures lacking
6 such amenities.

7 (2) ELIGIBILITY.—To be eligible to receive a
8 loan under this subsection, a State or Indian tribe,
9 directly or through an appropriate State or tribal
10 agency, shall submit to the Secretary an application
11 at such time, in such manner, and containing such
12 information as the Secretary may require.

13 (3) CRITERIA FOR APPROVAL.—The Secretary
14 may approve an application of a State or Indian
15 tribe under paragraph (2) only if the Secretary de-
16 termines that the State or tribe will use the funds
17 from the loan under this subsection to carry out a
18 program to provide incentives described in para-
19 graph (1) that—

20 (A) requires that any such renewable en-
21 ergy sources, and energy efficiency and energy
22 conserving improvements and features, devel-
23 oped pursuant to assistance under the program
24 result in compliance of the structure so im-

1 proved with energy efficiency requirements de-
2 termined by the Secretary; and

3 (B) includes such compliance and audit re-
4 quirements as the Secretary determines are nec-
5 essary to ensure that the program is operated
6 in a sound and effective manner.

7 (4) PREFERENCE.—In making loans during
8 each fiscal year, the Secretary shall give preference
9 to States and Indian tribes that have not previously
10 received a loan under this subsection.

11 (5) MAXIMUM AMOUNT.—The aggregate out-
12 standing principal amount from loans under this
13 subsection to any single State or Indian tribe may
14 not exceed \$500,000,000.

15 (6) LOAN TERMS.—Each loan under this sub-
16 section shall have a term to maturity of not more
17 than 10 years and shall bear interest at annual rate,
18 determined by the Secretary, that shall not exceed
19 interest rate charged by the Federal Reserve Bank
20 of New York to commercial banks and other deposi-
21 tory institutions for very short-term loans under the
22 primary credit program, as most recently published
23 in the Federal Reserve Statistical Release on se-
24 lected interest rates (daily or weekly), and commonly
25 referred to as the H.15 release, preceding the date

1 of a determination for purposes of applying this
2 paragraph.

3 (7) LOAN REPAYMENT.—The Secretary shall
4 require full repayment of each loan made under this
5 section.

6 (d) INVESTMENT OF AMOUNTS.—

7 (1) IN GENERAL.—The Secretary of the Treas-
8 ury shall invest such amounts in the Fund that are
9 not, in the judgment of the Secretary of the Treas-
10 ury, required to meet needs for current withdrawals.

11 (2) OBLIGATIONS OF UNITED STATES.—Invest-
12 ments may be made only in interest-bearing obliga-
13 tions of the United States.

14 (e) REPORTS.—

15 (1) REPORTS TO SECRETARY.—For each year
16 during the term of a loan made under subsection
17 (c), the State or Indian tribe that received the loan
18 shall submit to the Secretary a report describing the
19 State or tribal alternative energy sources program
20 for which the loan was made and the activities con-
21 ducted under the program using the loan funds dur-
22 ing that year.

23 (2) REPORT TO CONGRESS.—Not later than
24 September 30 of each year that loans made under
25 subsection (c) are outstanding, the Secretary shall

1 submit a report to the Congress describing the total
2 amount of such loans provided under subsection (c)
3 to each eligible State and Indian tribe during the fis-
4 cal year ending on such date, and an evaluation on
5 effectiveness of the Fund.

6 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
7 authorized to be appropriated to the Fund
8 \$5,000,000,000.

9 (g) DEFINITIONS.—For purposes of this section, the
10 following definitions shall apply:

11 (1) INDIAN TRIBE.—The term “Indian tribe”
12 has the meaning given such term in section 4 of the
13 Native American Housing Assistance and Self-De-
14 termination Act of 1996 (25 U.S.C. 4103).

15 (2) STATE.—The term “State” means each of
16 the several States, the Commonwealth of Puerto
17 Rico, the District of Columbia, the Commonwealth
18 of the Northern Mariana Islands, Guam, the Virgin
19 Islands, American Samoa, the Trust Territories of
20 the Pacific, or any other possession of the United
21 States.

22 **SEC. 299E. GREEN BANKING CENTERS.**

23 (a) INSURED DEPOSITORY INSTITUTIONS.—Section 8
24 of the Federal Deposit Insurance Act (12 U.S.C. 1818)

1 is amended by adding at the end the following new sub-
2 section:

3 “(x) ‘GREEN BANKING’ CENTERS.—

4 “(1) IN GENERAL.—The Federal banking agen-
5 cies shall prescribe guidelines encouraging the estab-
6 lishment and maintenance of ‘green banking’ centers
7 by insured depository institutions to provide any
8 consumer who seeks information on obtaining a
9 mortgage, home improvement loan, home equity
10 loan, or renewable energy lease with additional infor-
11 mation on—

12 “(A) obtaining an home energy rating or
13 audit for the residence for which such mortgage
14 or loan is sought;

15 “(B) obtaining financing for cost-effective
16 energy-saving improvements to such property;
17 and

18 “(C) obtaining beneficial terms for any
19 mortgage or loan, or qualifying for a larger
20 mortgage or loan, secured by a residence which
21 meets or will meet energy efficiency standards.

22 “(2) INFORMATION AND REFERRALS.—The in-
23 formation made available to consumers under para-
24 graph (1) may include—

1 “(A) information on obtaining a home en-
2 ergy rating and contact information on quali-
3 fied energy raters in the area of the residence;

4 “(B) information on the secondary market
5 guidelines that permit lenders to provide more
6 favorable terms by allowing lenders to increase
7 the ratio on debt-to-income requirements or to
8 use the projected utility savings as a compen-
9 sating factor;

10 “(C) information including eligibility infor-
11 mation about, and contact information for, any
12 conservation or renewable energy programs,
13 grants, or loans offered by the Secretary of
14 Housing and Urban Development, including the
15 Energy Efficient Mortgage Program;

16 “(D) information including eligibility infor-
17 mation about, and contact information for, any
18 conservation or renewable energy programs,
19 grants, or loans offered for qualified military
20 personal, reservists, and veterans by the Sec-
21 retary of Veterans Affairs;

22 “(E) information about, and contact infor-
23 mation for, the Office of Efficiency and Renew-
24 able Energy at the Department of Energy, in-
25 cluding the weatherization assistance program;

1 “(F) information about, and contact infor-
2 mation for, the Energy Star Program of the
3 Environmental Protection Agency;

4 “(G) information from, and contact infor-
5 mation for, the Federal Citizen Information
6 Center of the General Services Administration
7 on energy-efficient mortgages and loans, home
8 energy rating systems, and the availability of
9 energy-efficient mortgage information from a
10 variety of Federal agencies; and

11 “(H) such other information as the agen-
12 cies or the insured depository institution may
13 determine to be appropriate or useful.”.

14 (b) INSURED CREDIT UNIONS.—Section 206 of the
15 Federal Credit Union Act (12 U.S.C. 1786) is amended
16 by adding at the end the following new subsection:

17 “(x) ‘GREEN BANKING’ CENTERS.—

18 “(1) IN GENERAL.—The Board shall prescribe
19 guidelines encouraging the establishment and main-
20 tenance of ‘green banking’ centers by insured credit
21 unions to provide any member who seeks informa-
22 tion on obtaining a mortgage, home improvement
23 loan, home equity loan, or renewable energy lease
24 with additional information on—

1 “(A) obtaining an home energy rating or
2 audit for the residence for which such mortgage
3 or loan is sought;

4 “(B) obtaining financing for cost-effective
5 energy-saving improvements to such property;
6 and

7 “(C) obtaining beneficial terms for any
8 mortgage or loan, or qualifying for a larger
9 mortgage or loan, secured by a residence which
10 meets or will meet energy efficiency standards.

11 “(2) INFORMATION AND REFERRALS.—The in-
12 formation made available to members under para-
13 graph (1) may include—

14 “(A) information on obtaining a home en-
15 ergy rating and contact information on quali-
16 fied energy raters in the area of the residence;

17 “(B) information on the secondary market
18 guidelines that permit lenders to provide more
19 favorable terms by allowing lenders to increase
20 the ratio on debt-to-income requirements or to
21 use the projected utility savings as a compen-
22 sating factor;

23 “(C) information including eligibility infor-
24 mation about, and contact information for, any
25 conservation or renewable energy programs,

1 grants, or loans offered by the Secretary of
2 Housing and Urban Development, including the
3 Energy Efficient Mortgage Program;

4 “(D) information including eligibility infor-
5 mation about, and contact information for, any
6 conservation or renewable energy programs,
7 grants, or loans offered for qualified military
8 personal, reservists, and veterans by the Sec-
9 retary of Veterans Affairs;

10 “(E) information about, and contact infor-
11 mation for, the Office of Efficiency and Renew-
12 able Energy at the Department of Energy, in-
13 cluding the weatherization assistance program;

14 “(F) information from, and contact infor-
15 mation for, the Federal Citizen Information
16 Center of the General Services Administration
17 on energy-efficient mortgages and loans, home
18 energy rating systems, and the availability of
19 energy-efficient mortgage information from a
20 variety of Federal agencies; and

21 “(G) such other information as the Board
22 or the insured credit union may determine to be
23 appropriate or useful.”.

1 **SEC. 299F. GAO REPORTS ON AVAILABILITY OF AFFORD-**
2 **ABLE MORTGAGES.**

3 (a) STUDY.—The Comptroller General of the United
4 States shall periodically, as necessary to comply with sub-
5 section (b), examine the impact of this subtitle and the
6 amendments made by this subtitle on the availability of
7 affordable mortgages in various areas throughout the
8 United States, including cities having older infrastructure
9 and limited space for the development of new housing.

10 (b) TRIENNIAL REPORTS.—The Comptroller General
11 shall submit a report once every 3 years to the Committee
12 on Financial Services of the House of Representatives and
13 the Committee on Banking, Housing, and Urban Affairs
14 of the Senate that shall include—

15 (1) a detailed statement of the most recent
16 findings pursuant to subsection (a); and

17 (2) if the Comptroller General finds that this
18 subtitle or the amendments made by this subtitle
19 have directly or indirectly resulted in consequences
20 that limit the availability or affordability of mort-
21 gages in any area or areas within the United States,
22 including any city having older infrastructure and
23 limited space for the development of new housing,
24 any recommendations for any additional actions at
25 the Federal, State, or local levels that the Comp-

1 troller General considers necessary or appropriate to
2 mitigate such effects.

3 The first report under this subsection shall be submitted
4 not later than the expiration of the 3-year period begin-
5 ning on the date of the enactment of this Act.

6 **SEC. 299G. PUBLIC HOUSING ENERGY COST REPORT.**

7 (a) COLLECTION OF INFORMATION BY HUD.—The
8 Secretary of Housing and Urban Development shall obtain
9 from each public housing agency, by such time as may
10 be necessary to comply with the reporting requirement
11 under subsection (b), information regarding the energy
12 costs for public housing administered or operated by the
13 agency. For each public housing agency, such information
14 shall include the monthly energy costs associated with
15 each separate building and development of the agency, for
16 the most recently completed 12-month period for which
17 such information is available, and such other information
18 as the Secretary determines is appropriate in determining
19 which public housing buildings and developments are most
20 in need of repairs and improvements to reduce energy
21 needs and costs and become more energy efficient.

22 (b) REPORT.—Not later than the expiration of the
23 12-month period beginning on the date of the enactment
24 of this Act, the Secretary of Housing and Urban Develop-

1 ment shall submit a report to the Congress setting forth
2 the information collected pursuant to subsection (a).

3 **SEC. 299H. SECONDARY MARKET FOR RESIDENTIAL RE-**
4 **NEWABLE ENERGY LEASE INSTRUMENTS.**

5 (a) PURPOSES.—The purposes of this section are—

6 (1) to encourage residential use of renewable
7 energy systems by minimizing up-front costs and
8 providing immediate utility cost savings to con-
9 sumers through leasing of such systems to home-
10 owners;

11 (2) to reduce carbon emissions and the use of
12 nonrenewable resources;

13 (3) to encourage energy-efficient residential
14 construction and rehabilitation;

15 (4) to encourage the use of renewable resources
16 by homeowners;

17 (5) to minimize the impact of development on
18 the environment;

19 (6) to reduce consumer utility costs; and

20 (7) to encourage private investment in the
21 green economy.

22 (b) RESIDUAL VALUE OF RENEWABLE ENERGY
23 ASSET.—The Secretary of Housing and Urban Develop-
24 ment shall establish a means of determining the residual
25 value of a renewable energy asset such that a secondary

1 market for residential renewable energy lease instruments
2 may be facilitated. Such means may include, without limi-
3 tation, the calculation of residual value based on the net
4 present value of projected future energy production of the
5 renewable energy asset.

6 **SEC. 299I. GREEN GUARANTEES.**

7 (a) AUTHORITY TO GUARANTEE “GREEN PORTION”
8 OF ELIGIBLE MORTGAGES.—

9 (1) IN GENERAL.—The Secretary of Housing
10 and Urban Development may make commitments to
11 guarantee under this section and may guarantee, the
12 repayment of the portions of the principal obliga-
13 tions of eligible mortgages that are used to finance
14 eligible sustainable building elements for the housing
15 that is subject to the mortgage.

16 (2) AMOUNT OF GUARANTEE.—A guarantee
17 under this section by the Secretary in connection
18 with an eligible mortgage shall not exceed a percent-
19 age of the green portion (as such term is defined in
20 subsection (g)) of the mortgage, as shall be estab-
21 lished by the Secretary and may be established on
22 a regional basis as the Secretary determines appro-
23 priate.

1 (b) ELIGIBLE MORTGAGES.—To be considered an eli-
2 gible mortgage for purposes of this section, a mortgage
3 shall comply with all of the following requirements:

4 (1) ACQUISITION OR CONSTRUCTION OF HOUS-
5 ING.—The mortgage shall be made for the acquisi-
6 tion or construction of single- or multifamily housing
7 and repayment of the mortgage shall be secured by
8 an interest in such housing.

9 (2) FINANCING OF ELIGIBLE SUSTAINABLE
10 BUILDING ELEMENTS THROUGH GREEN PORTION OF
11 MORTGAGE.—A portion of the principal obligation of
12 the mortgage, which meets the requirements under
13 subsection (c), shall be used only for financing the
14 provision of eligible sustainable building elements for
15 the housing for which the mortgage was made.

16 (3) MAXIMUM MORTGAGE AMOUNT.—The prin-
17 cipal obligation of the mortgage (including the eligi-
18 ble portion of such mortgage, and such initial service
19 charges, appraisal, inspection, and other fees as the
20 Secretary shall approve) may not exceed the fol-
21 lowing amounts:

22 (A) SINGLE-FAMILY HOUSING.—Such dol-
23 lar amounts for single-family housing as the
24 Secretary shall establish, which may be estab-
25 lished on the basis of the number of dwelling

1 units in the housing, as the Secretary considers
2 appropriate.

3 (B) MULTIFAMILY HOUSING.—Such dollar
4 amounts for multifamily housing as the Sec-
5 retary shall establish, which may be established
6 on the basis of the number of dwelling units in
7 the housing and the number of bedrooms in
8 such dwelling units, as the Secretary considers
9 appropriate.

10 (4) REPAYMENT.—The mortgage meets such
11 requirements as the Secretary shall establish to en-
12 sure that there is a reasonable prospect of repay-
13 ment of the principal and interest on the obligation
14 by the mortgagor.

15 (5) MORTGAGE TERMS.—The mortgage shall
16 meet such requirements with respect to loan-to-value
17 ratio, mortgagor credit scores, debt-to-income ratio,
18 and other underwriting standards, term to maturity,
19 interest rates and amortization, including amortiza-
20 tion of the green portion of the mortgage, and other
21 mortgage terms as the Secretary shall establish.

22 (c) LIMITATIONS ON GREEN PORTION OF MORT-
23 GAGE.—The requirements under this subsection with re-
24 spect to the green portion of an eligible mortgage are as
25 follows:

1 (1) PERCENTAGE LIMITATION.—Such portion
2 shall not exceed, in the case of single-family or mul-
3 tifamily housing, 10 percent of the total principal
4 obligation of the mortgage.

5 (2) DOLLAR AMOUNT LIMITATION.—Such por-
6 tion shall not exceed—

7 (A) in the case of single-family housing,
8 such maximum dollar amount limitation as the
9 Secretary shall establish, which may be estab-
10 lished on the basis of the number of dwelling
11 units in the housing, as the Secretary considers
12 appropriate; and

13 (B) in the case of multifamily housing,
14 such maximum dollar amount limitation as the
15 Secretary shall establish, which limitation may
16 be established on the basis of the number of
17 dwelling units in the housing and the number
18 of bedrooms in such dwelling units, as the Sec-
19 retary considers appropriate.

20 (3) COST-EFFECTIVENESS LIMITATION.—Such
21 portion shall not exceed the total present value of
22 the savings (as determined in accordance with sub-
23 section (d)) attributable to the incorporation of the
24 eligible sustainable building elements to be financed

1 with the green portion of the mortgage that are to
2 be realized over the useful life of such elements.

3 (d) ELIGIBLE SUSTAINABLE BUILDING ELE-
4 MENTS.—The Secretary may not guarantee any eligible
5 mortgage under this section unless the mortgagor has
6 demonstrated, in accordance with such requirements as
7 the Secretary shall establish, the amount of savings attrib-
8 utable to incorporation of the sustainable building ele-
9 ments to be financed with the green portion of the mort-
10 gage, as measured by the National Green Building Stand-
11 ard for all residential construction developed by the Na-
12 tional Association of Home Builders and the U.S. Green
13 Building Council, and approved by the American National
14 Standards Institute, as updated and in effect at the time
15 of such demonstration.

16 (e) GUARANTEE FEE.—

17 (1) ASSESSMENT AND COLLECTION.—The Sec-
18 retary shall assess and collect fees for guarantees
19 under this section in amounts that the Secretary de-
20 termines are sufficient to cover the costs (as such
21 term is defined in section 502 of the Federal Credit
22 Reform Act of 1990 (2 U.S.C. 661a)) of such guar-
23 antees.

24 (2) AVAILABILITY.—Fees collected under this
25 subsection shall be deposited by the Secretary in the

1 Treasury of the United States and shall remain
2 available until expended, subject to such other condi-
3 tions as are contained in annual appropriations Acts.

4 (f) PAYMENT OF GUARANTEE.—

5 (1) DEFAULT.—

6 (A) RIGHT TO PAYMENT.—If a mortgagor
7 under a mortgage guaranteed under this section
8 defaults (as defined in regulations issued by the
9 Secretary and specified in the guarantee con-
10 tract) on the obligation under the mortgage—

11 (i) the holder of the guarantee shall
12 have the right to demand payment of the
13 unpaid amount of the guaranteed portion
14 of the mortgage, to the extent provided
15 under subsection (a)(2), from the Sec-
16 retary; and

17 (ii) within such period as may be
18 specified in the guarantee or related agree-
19 ments, the Secretary shall pay to the hold-
20 er of the guarantee, to the extent provided
21 under subsection (a)(2), the unpaid inter-
22 est on, and unpaid principal of the portion
23 of guaranteed portion of the mortgage with
24 respect to which the borrower has de-
25 faulted, unless the Secretary finds that

1 there was no default by the borrower in
2 the payment of interest or principal or that
3 the default has been remedied.

4 (B) FORBEARANCE.—Nothing in this para-
5 graph precludes any forbearance by the holder
6 of an eligible mortgage for the benefit of the
7 mortgagor which may be agreed upon by the
8 parties to the mortgage and approved by the
9 Secretary.

10 (2) SUBROGATION.—

11 (A) IN GENERAL.—If the Secretary makes
12 a payment under paragraph (1), the Secretary
13 shall be subrogated to the rights of the recipi-
14 ent of the payment as specified in the guar-
15 antee or related agreements including, if appro-
16 priate, the authority (notwithstanding any other
17 provision of law)—

18 (i) to complete, maintain, operate,
19 lease, or otherwise dispose of any property
20 acquired pursuant to such guarantee or re-
21 lated agreements; or

22 (ii) to permit the mortgagor, pursuant
23 to an agreement with the Secretary, to
24 continue to occupy the property subject to

1 the mortgage, if the Secretary determines
2 such occupancy to be appropriate.

3 (B) SUPERIORITY OF RIGHTS.—The rights
4 of the Secretary, with respect to any property
5 acquired pursuant to a guarantee or related
6 agreements, shall be superior to the rights of
7 any other person with respect to the property.

8 (C) TERMS AND CONDITIONS.—A guar-
9 antee agreement shall include such detailed
10 terms and conditions as the Secretary deter-
11 mines appropriate to protect the interests of the
12 United States in the case of default.

13 (3) FULL FAITH AND CREDIT.—The full faith
14 and credit of the United States is pledged to the
15 payment of all guarantees issued under this section
16 with respect to principal and interest.

17 (g) DEFINITIONS.—For purposes of this section, the
18 following definitions shall apply:

19 (1) ELIGIBLE MORTGAGE.—The term “eligible
20 mortgage” means a mortgage that meets the re-
21 quirements under subsection (b).

22 (2) GREEN PORTION.—The term “green por-
23 tion” means, with respect to an eligible mortgage,
24 the portion of the mortgage principal referred to in
25 subsection (b)(2) that is attributable, as determined

1 in accordance with regulations issued by the Sec-
2 retary, to the increased costs incurred in financing
3 provision of sustainable building elements for the
4 housing for which the mortgage was made, as com-
5 pared to the costs that would have been incurred in
6 financing the provision of other building elements
7 for the housing for the same purposes that are com-
8 monly or conventionally used but are not sustainable
9 building elements.

10 (3) GUARANTEED PORTION.—The term “guar-
11 anteed portion” means, with respect to an eligible
12 mortgage guaranteed under this section, the green
13 portion of the mortgage that is so guaranteed.

14 (4) MORTGAGE.—The term “mortgage” has the
15 meaning given such term in section 201 of the Na-
16 tional Housing Act (12 U.S.C. 1707).

17 (5) MULTIFAMILY HOUSING.—The term “multi-
18 family housing” means a residential property con-
19 sisting of five or more dwelling units.

20 (6) SECRETARY.—The term “Secretary” means
21 the Secretary of Housing and Urban Development.

22 (7) SINGLE-FAMILY HOUSING.—The term “sin-
23 gle-family housing” means a residential property
24 consisting of one to four dwelling units.

1 (8) SUSTAINABLE BUILDING ELEMENT.—The
2 term “sustainable building element” means such
3 building elements, as the Secretary shall define, that
4 have energy efficiency or environmental sustain-
5 ability qualities that are superior to such qualities
6 for other building elements for the same purposes
7 that are commonly or conventionally used.

8 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
9 authorized to be appropriated for costs (as such term is
10 defined in section 502 of the Federal Credit Reform Act
11 of 1990 (2 U.S.C. 661a) of guarantees under this section
12 \$500,000,000 for each of fiscal years 2010 through 2014.

13 (i) REGULATIONS.—The Secretary shall issue any
14 regulations necessary to carry out this section.

Page 566, line 22, insert “offset” before “credit”.

Page 567, line 8, strike “allowances or offset cred-
its” and insert “allowances, offset credits, or term offset
credits”.

Page 567, line 11, strike “allowances or offset cred-
its” 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:

1 “(2) TERM OFFSET CREDITS.—

2 “(A) IN GENERAL.—Covered entities may,
3 in accordance with this paragraph, use non-ex-
4 pired term offset credits instead of domestic
5 offset credits for purposes of temporarily dem-
6 onstrating compliance with this section.

7 “(B) AMOUNT.—The combined quantity of
8 term offset credits and domestic offset credits
9 used by a covered entity to demonstrate compli-
10 ance for its emissions or attributable green-
11 house gas emissions in any given year shall not
12 exceed the quantity of domestic offset credits
13 that a covered entity is entitled to use for that
14 year to demonstrate compliance in accordance
15 with paragraph (1).

16 “(C) EXPIRATION.—A term offset credit
17 shall expire in the year after its term ends. The
18 term of a term offset credit shall be calculated
19 by adding to the year of issuance the number
20 of years equal to the length of the crediting pe-
21 riod for the practice or project for which the
22 term offset credit was issued, but in no case

1 shall be later than the date 5 years from the
2 date of issuance.

3 “(D) DEMONSTRATING COMPLIANCE UPON
4 EXPIRATION OF TERM OFFSET CREDIT.—With
5 respect to the emissions for which a covered en-
6 tity is using term offset credits to demonstrate
7 compliance temporarily with this section, the
8 owner or operator of a covered entity shall not
9 be considered to be in compliance with the pro-
10 hibition in subsection (a) unless, as of 12:01
11 a.m. on April 1 (or a later date established by
12 the Administrator under subsection (j)) of the
13 calendar year in which a term offset credit ex-
14 pires, the owner or operator holds—

15 “(i) for purposes of finally dem-
16 onstrating compliance, an allowance or a
17 domestic offset credit; or

18 “(ii) for purposes of temporarily dem-
19 onstrating compliance, a non-expired term
20 offset credit.

21 Domestic offset credits used for purposes of fi-
22 nally demonstrating compliance under this sub-
23 paragraph shall not be subject to the percent-
24 age limitations in subparagraph (B).

1 “(E) FINANCIAL ASSURANCE.—A covered
2 entity may not use a term offset credit to dem-
3 onstrate compliance temporarily unless it simul-
4 taneously provides to the Administrator finan-
5 cial assurance that, at the end of the term off-
6 set credit’s crediting term, the covered entity
7 will have sufficient resources to obtain the
8 quantity of allowances or credits necessary to
9 demonstrate final compliance. The Adminis-
10 trator shall issue regulations establishing re-
11 quirements for such financial assurance, which
12 shall take into account the increased risk asso-
13 ciated with longer crediting terms. These regu-
14 lations shall take into account the total number
15 of tons of carbon dioxide equivalent of green-
16 house gas emissions for which a covered entity
17 is demonstrating compliance temporarily, and
18 may set a limit on this amount. In the event
19 that a covered entity that used term offset cred-
20 its to demonstrate compliance temporarily fails
21 to meet the requirements of subparagraph (D)
22 at the end of the term offset credits’ crediting
23 term, if the financial assurance mechanism fails
24 to provide to the Administrator the number of
25 allowances or offset credits for which the cred-

1 iting term has expired, then the Administrator
2 shall retire that number of allowances with the
3 vintage year 2 years after the year in which the
4 term offset credit expires in the same amount.
5 Allowances so retired shall not be counted as
6 emission allowances established for that cal-
7 endar 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:

1 “(17) DOMESTIC OFFSET CREDIT.—For pur-
2 poses of part D, the term ‘domestic offset credit’
3 means an offset credit issued under part D, other
4 than an international offset credit. For purposes of
5 part C, the term means any offset credit issued
6 under the American Clean Energy and Security Act
7 of 2009, or the amendments made thereby. The
8 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:

9 “(38) OFFSET CREDIT.—For purposes of this
10 section and part D, the term ‘offset credit’ means an
11 offset credit issued under part D. For purposes of
12 part C, the term means any offset credit issued
13 under the American Clean Energy and Security Act

1 of 2009, or the amendments made thereby. The
2 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:

3 “(42) RENEWABLE BIOMASS.—The term ‘re-
4 newable biomass’ means any of the following:

5 “(A) Materials, pre-commercial thinnings,
6 or removed invasive species from National For-
7 est System land and public lands (as defined in
8 section 103 of the Federal Land Policy and
9 Management Act of 1976 (43 U.S.C. 1702)),
10 including those that are byproducts of preven-
11 tive treatments (such as trees, wood, brush,
12 thinnings, chips, and slash), that are removed
13 as part of a federally recognized timber sale, or
14 that are removed to reduce hazardous fuels, to
15 reduce or contain disease or insect infestation,
16 or to restore ecosystem health, and that are—

17 “(i) not from components of the Na-
18 tional Wilderness Preservation System,
19 Wilderness Study Areas, Inventoried
20 Roadless Areas, old growth stands, late-
21 successional stands (except for dead, se-
22 verely damaged, or badly infested trees),

1 components of the National Landscape
2 Conservation System, National Monu-
3 ments, National Conservation Areas, Des-
4 ignated Primitive Areas, or Wild and Sce-
5 nic Rivers corridors;

6 “(ii) harvested in environmentally sus-
7 tainable quantities, as determined by the
8 appropriate Federal land manager; and

9 “(iii) harvested in accordance with
10 Federal and State law, and applicable land
11 management plans.

12 “(B) Any organic matter that is available
13 on a renewable or recurring basis from non-
14 Federal land or land belonging to an Indian or
15 Indian tribe that is held in trust by the United
16 States or subject to a restriction against alien-
17 ation imposed by the United States, including—

18 “(i) renewable plant material, includ-
19 ing—

20 “(I) feed grains;

21 “(II) other agricultural commod-
22 ities;

23 “(III) other plants and trees; and

24 “(IV) algae; and

25 “(ii) waste material, including—

- 1 “(I) crop residue;
- 2 “(II) other vegetative waste ma-
- 3 terial (including wood waste and wood
- 4 residues);
- 5 “(III) animal waste and byprod-
- 6 ucts (including fats, oils, greases, and
- 7 manure);
- 8 “(IV) construction waste; and
- 9 “(V) food waste and yard waste.
- 10 “(C) Residues and byproducts from wood,
- 11 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:

- 12 “(3) For vintage year 2012, the Administrator shall
- 13 allocate 0.35 percent of emission allowances established

1 for such year under section 721(a) to avoid disincentives
2 to the continued use of existing energy-efficient cogenera-
3 tion facilities at industrial parks, to be distributed in ac-
4 cordance with section 783(f).

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

5 “(3) To be distributed among the States in ac-
6 cordance with the formula in section 132(b) of the
7 American Clean Energy and Security Act of 2009
8 and to be used exclusively for the purposes of section
9 202 of the American Clean Energy and Security Act
10 of 2009 in the following amounts:

11 “(A) For vintage years 2012 through
12 2017, 0.05 percent of the emission allowances
13 established for each year under section 721(a).

14 “(B) For vintage years 2018 through
15 2050, 0.03 percent of the emission allowances
16 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:

1 “(2) The Administrator shall auction, pursuant
2 to section 791, 0.75 percent of the emission allow-
3 ances established for each of vintage years 2012 and
4 2013 under section 721(a), and shall deposit the
5 proceeds in the Energy Efficiency and Renewable
6 Energy Worker Training Fund established by sec-
7 tion 422 of the American Clean Energy and Security
8 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:

1 “(t) COMPENSATION FOR EARLY ACTORS.—For vin-
2 tage year 2012, the Administrator shall allocate for com-
3 pensation for early actors 1 percent of emission allowances
4 established under section 721(a), to be distributed in ac-
5 cordance with section 795 of the American Clean Energy
6 and Security Act of 2009.

7 “(u) SUPPLEMENTAL AGRICULTURE AND RENEW-
8 ABLE ENERGY.—

9 “(1) IN GENERAL.—For vintage years 2012
10 through 2016, the Administrator shall allocate 0.28
11 percent of emission allowances established under sec-
12 tion 721(a), to be distributed in accordance with sec-
13 tion 788 of the American Clean Energy and Security
14 Act of 2009.

15 “(2) CARRYOVER.—After the Administrator dis-
16 tributes emission allowances pursuant to section 788
17 for any given vintage year, any emission allowances
18 allocated to supplemental agriculture and renewable
19 energy pursuant to this subsection that have not
20 been so distributed shall, in accordance with sub-
21 section (s), be exchanged for allowances from the
22 following vintage year and treated as part of the al-
23 location 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:

- 1 “(iii) calendar year 2013, if such unit
- 2 commences operation on or after October
- 3 1, 2012, and before January 1, 2013.

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

- 4 (f) CERTAIN COGENERATION FACILITIES.—

1 (1) ELIGIBLE COGENERATION FACILITIES.—

2 For purposes of this subsection, an “eligible cogeneration facility” is a facility that—

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

6 (B) derives 80 percent or more of its heat
7 input from coal, petroleum coke, or any combination of these 2 fuels;
8 (C) has a nameplate capacity of 100
9 megawatts or greater;

10 (D) was in operation as of January 1,
11 2009, and remains in operation as of the date
12 of any distribution of emission allowances under
13 this subsection;

14 (E) in calendar years 2006 through 2008
15 sold, and as of the date of any distribution of
16 emission allowances under this section sells,
17 steam or electricity directly and solely to multiple,
18 separately-owned industrial or commercial
19 facilities co-located at the same site with the cogeneration facility; and
20 (F) is not eligible to receive allowances
21 under any other subsection of this section or
22 under part F of this title.

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

1 (2) DISTRIBUTION.—The Administrator shall
2 distribute the emission allowances allocated pursuant
3 to section 782(a)(3) to owners or operators of eligi-
4 ble cogeneration facilities ratably based on the car-
5 bon dioxide emissions of each such facility in cal-
6 endar years 2006 through 2008. The Adminis-
7 trator—

8 (A) shall not, in any year, distribute emis-
9 sion allowances under this subsection to the
10 owner or operator of any eligible cogeneration
11 facility in excess of the amount necessary to
12 offset such facility's cost of compliance with the
13 requirements of this title in that year; and

14 (B) may distribute such allowances over a
15 period of years if annual distributions under
16 this subsection would otherwise exceed the limi-
17 tation in subparagraph (A), provided that in no
18 event shall distributions be made under this
19 subsection after calendar year 2025.

20 (3) REQUIREMENTS.—The Administrator shall,
21 by regulation, establish requirements to ensure that
22 the value of any emission allowances distributed pur-
23 suant to this subsection are passed through, on an
24 equitable basis, to the facilities to which the relevant
25 cogeneration facility provides electricity or steam de-

1 liveries, including any facility owned or operated by
2 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:

3 **“SEC. 788. SUPPLEMENTAL AGRICULTURE AND RENEW-**
4 **ABLE ENERGY INCENTIVES PROGRAMS.**

5 “(a) IN GENERAL.—Emission allowances allocated
6 pursuant to section 782(u) shall be distributed by the Ad-
7 ministrator at the direction of the Secretary of Energy
8 and the Secretary of Agriculture in accordance with this
9 section. Not less than 50 percent of the allowances shall
10 be available for the program established pursuant to sub-
11 section (b).

12 “(b) AGRICULTURE INCENTIVES PROGRAM.—

13 “(1) ESTABLISHMENT.—The Secretary of Agri-
14 culture shall establish by rule a program to provide
15 incentives in the form of emission allowances for ac-
16 tivities undertaken in the agriculture sector that re-
17 duce greenhouse gas emissions or sequester carbon.
18 Under this program, the Secretary of Agriculture
19 shall provide incentives for projects and activities
20 that—

1 “(A) reduce or avoid greenhouse gas emis-
2 sions, or sequester greenhouse gases, but do not
3 meet the criteria for offset credits established
4 under the American Clean Energy and Security
5 Act of 2009;

6 “(B) support actions to adapt to climate
7 change; or

8 “(C) prevent conversion of land that would
9 increase greenhouse gas emissions (including
10 projects and activities that complement or sup-
11 plement conservation programs administered by
12 the Secretary).

13 “(2) CONSIDERATIONS.—In designing this pro-
14 gram, the Secretary shall ensure that it provides
15 support for—

16 “(A) development and demonstration of
17 practices to reduce greenhouse gas emissions or
18 sequester carbon in agricultural operations
19 where there are limited recognized opportunities
20 to achieve such emissions reductions or seques-
21 tration; and

22 “(B) projects that reduce greenhouse gas
23 emissions or increase sequestration of green-
24 house gases and also achieve other significant

1 environmental benefits, such as the improve-
2 ment of water or air quality.

3 “(3) RESEARCH.—The Secretary shall establish
4 by rule a program to conduct research to develop ad-
5 ditional projects and activities for crops to find addi-
6 tional techniques and methods to reduce greenhouse
7 gas emissions or sequester greenhouse gases that
8 may or may not meet the criteria for offset credits
9 established under the American Clean Energy and
10 Security Act of 2009.

11 “(4) USE OF INFORMATION.—Information and
12 data generated by this program should, where rel-
13 evant, be used to inform the development of addi-
14 tional offset practices and methodologies.

15 “(c) RENEWABLE ENERGY INCENTIVES PROGRAM.—
16 The Secretary of Energy and the Administrator shall es-
17 tablish by rule a program to provide allowances to State
18 and local governments to support the deployment of re-
19 newable 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:

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

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

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

5 **“SEC. 795. EXCHANGE FOR EARLY ACTION OFFSET CRED-**
6 **ITS.**

7 “(a) IN GENERAL.—Emission allowances allocated
8 pursuant to section 782(t) shall be distributed by the Ad-
9 ministrators in accordance with this section. Not later than
10 one year after the date of enactment of this title, the Ad-
11 ministrators shall issue regulations allowing—

12 “(1) any person in the United States to ex-
13 change instruments in the nature of offset credits
14 issued before January 1, 2009, by a State or vol-
15 untary offset program with respect to which the Ad-
16 ministrators has made an affirmative determination
17 under section 740(a)(2), for emissions allowances es-
18 tablished by the Administrator under section 721(a);
19 and

1 “(2) the Administrator to provide compensation
2 in the form of emission allowances to entities that
3 do not meet the criteria of paragraph (1) and meet
4 the criteria of this paragraph for documented early
5 reductions or avoidance of greenhouse gas emissions
6 or greenhouse gases sequestered before January 1,
7 2009, from projects begun before January 1, 2009,
8 where—

9 “(A) the entity publicly stated greenhouse
10 gas reduction goals and publicly reported
11 against those goals;

12 “(B) the entity demonstrated entity-wide
13 net greenhouse gas reductions; and

14 “(C) the entity demonstrates the actual
15 projects undertaken to make reductions and
16 documents the reductions (e.g., through docu-
17 mentation of engineering projects).

18 “(b) REGULATIONS.—Regulations issued under sub-
19 section (a) shall—

20 “(1) provide that a person exchanging credits
21 under subsection (a)(1) receive emission allowances
22 established under section 721(a) in an amount for
23 which the monetary value is equivalent to the aver-
24 age monetary value of the credits during the period
25 from January 1, 2006, to January 1, 2009, as ad-

1 justed for inflation to reflect current dollar values at
2 the time of the exchange;

3 “(2) provide that a person receiving compensa-
4 tion for documented early action under subsection
5 (a)(2) shall receive emission allowances established
6 under section 721(a) in an amount that is approxi-
7 mately equivalent in value to the carbon dioxide
8 equivalent per ton value received by entities in ex-
9 change for credits under paragraph (1) (as adjusted
10 for inflation to reflect current dollar values at the
11 time of the exchange), as determined by the Admin-
12 istrator;

13 “(3) provide that only reductions or avoidance
14 of greenhouse gas emissions, or sequestration of
15 greenhouse gases, achieved by activities in the
16 United States between January 1, 2001, and Janu-
17 ary 1, 2009, may be compensated under this section,
18 and only credits issued for such activities may be ex-
19 changed under this section;

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

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

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

7 “(c) PARTICIPATION.—Participation in an exchange
8 of credits for allowances or compensation for early action
9 authorized by this section shall not preclude any person
10 from participation in an offset credit program established
11 under the American Clean Energy and Security Act of
12 2009.

13 “(d) DISTRIBUTION.—Of the emission allowances
14 distributed under this section, a quantity equal to 0.75
15 percent of vintage year 2012 emission allowances estab-
16 lished under section 721(a) shall be distributed pursuant
17 to subsection (a)(1), and a quantity equal to 0.25 percent
18 of vintage year 2012 emission allowances established
19 under section 721(a) shall be distributed pursuant to sub-
20 section (a)(2).”.

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

1 **SEC. 340. REDUCING ACID RAIN AND MERCURY POLLU-**
2 **TION.**

3 Not later than 18 months after the date of enactment
4 of this Act, the Administrator shall submit to Congress
5 a report that analyzes the effects of different carbon diox-
6 ide reduction strategies and technologies on the emissions
7 of mercury, sulfur dioxide, and nitrogen oxide, which
8 cause acid rain, particulate matter, ground level ozone,
9 mercury contamination, and other environmental prob-
10 lems. The report shall assess a variety of carbon reduction
11 technologies, including the application of various carbon
12 capture and sequestration technologies for both new and
13 existing power plants. The report shall assess the current
14 scientific and technical understanding of the interplay be-
15 tween the various technologies and emissions of air pollut-
16 ants, identify hurdles to strategies that could cost-effec-
17 tively reduce emissions of multiple pollutants, and make
18 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 “(e)” 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:

1 SEC. 342. CARBON DERIVATIVE MARKETS.

2 (a) Section 1a(14) of the Commodity Exchange Act
3 (7 U.S.C. 1a(14)) is amended by striking “or an agricul-
4 tural commodity” and inserting “, an agricultural com-
5 modity, or any emission allowance, compensatory allow-
6 ance, offset credit, or Federal renewable electricity credit
7 established or issued under the American Clean Energy
8 and Security Act of 2009”.

9 (b) Section 4(c) of such Act (7 U.S.C. 6(c)) is amend-
10 ed by adding at the end the following:

1 “(6) This subsection does not apply to any
2 agreement, contract, or transaction for any emission
3 allowance, compensatory allowance, offset credit, or
4 Federal renewable electricity credit established or
5 issued under the American Clean Energy and Secu-
6 rity Act of 2009.”.

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

7 **SEC. 358. EFFECT OF DERIVATIVES REGULATORY REFORM**
8 **LEGISLATION.**

9 (a) STATUTES.—Upon the passage of legislation that
10 includes derivatives regulatory reform, sections 351, 352,
11 354, 355, 356, and 357 shall be repealed.

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

Page 923, after line 13, insert the following new sec-
tion:

16 **SEC. 360. PRESIDENTIAL REVIEW OF REGULATIONS.**

17 Not later than 24 months after the date of enactment
18 of this Act, the President shall review the offset regula-
19 tions and derivatives regulations promulgated pursuant to
20 the American Clean Energy and Security Act of 2009. The

1 President shall determine whether such regulations ade-
2 quately protect the United States financial system from
3 systemic risk.

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

4 **Subtitle A—Ensuring Real**
5 **Reductions in Industrial Emissions**

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

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

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

12 **“SEC. 761. PURPOSES.**

13 “(a) PURPOSES OF PART.—The purposes of this part
14 are—

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

21 “(2) to prevent an increase in greenhouse gas
22 emissions in countries other than the United States

1 as a result of direct and indirect compliance costs in-
2 curred under this title.

3 “(b) PURPOSES OF SUBPART 1.—The purposes of
4 subpart 1 are additionally—

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

10 “(2) to design such rebates in a way that will
11 prevent carbon leakage while also rewarding innova-
12 tion and facility-level investments in energy effi-
13 ciency performance improvements; and

14 “(3) to eliminate or reduce distribution of emis-
15 sion allowances under subpart 1 when such distribu-
16 tion is no longer necessary to prevent carbon leakage
17 from eligible industrial sectors.

18 “(c) PURPOSES OF SUBPART 2.—The purposes of
19 subpart 2 are additionally—

20 “(1) to induce foreign countries, and, in par-
21 ticular, fast-growing developing countries, to take
22 substantial action with respect to their greenhouse
23 gas emissions consistent with the Bali Action Plan
24 developed under the United Nations Framework
25 Convention on Climate Change; and

1 “(2) to ensure that the measures described in
2 subpart 2 are designed and implemented in a man-
3 ner consistent with applicable international agree-
4 ments to which the United States is a party.

5 **“SEC. 762. DEFINITIONS.**

6 “In this part:

7 “(1) CARBON LEAKAGE.—The term ‘carbon
8 leakage’ means any substantial increase (as deter-
9 mined by the Administrator) in greenhouse gas
10 emissions by industrial entities located in other
11 countries if such increase is caused by an incre-
12 mental cost of production increase in the United
13 States resulting from the implementation of this
14 title.

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

18 “(A) entered under a heading or sub-
19 heading of the Harmonized Tariff Schedule of
20 the United States that corresponds to the
21 NAICS code for an eligible industrial sector, as
22 established in the concordance between NAICS
23 codes and the Harmonized Tariff Schedule of
24 the United States prepared by the United
25 States Census Bureau; or

1 “(B) a manufactured item for consump-
2 tion.

3 “(3) ELIGIBLE INDUSTRIAL SECTOR.—The
4 term ‘eligible industrial sector’ means an industrial
5 sector determined by the Administrator under sec-
6 tion 763(b) to be eligible to receive emission allow-
7 ance rebates under subpart 1.

8 “(4) INDUSTRIAL SECTOR.—The term ‘indus-
9 trial sector’ means any sector that is in the manu-
10 facturing sector (as defined in NAICS codes 31, 32,
11 and 33) or that beneficiates or otherwise processes
12 (including agglomeration) metal ores, including iron
13 and copper ores, soda ash, or phosphate. The extrac-
14 tion of metal ores, soda ash, or phosphate shall not
15 be considered to be an industrial sector.

16 “(5) MANUFACTURED ITEM FOR CONSUMP-
17 TION.—

18 “(A) IN GENERAL.—The term ‘manufac-
19 tured item for consumption’ means any good—

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

23 “(ii) with respect to which an inter-
24 national reserve allowance program pursu-
25 ant to subpart 2 is in effect with regard to

1 the eligible industrial sector and the quan-
2 tity of international reserve allowances is
3 not zero pursuant to section 768(b);

4 “(iii) with respect to which the trade
5 intensity of the industrial sector that pro-
6 duces the good, as measured consistent
7 with section 763(b)(2)(A)(iii), is at least
8 15 percent; and

9 “(iv) for which the domestic producers
10 of the good have demonstrated, and the
11 Administrator has determined, that the ap-
12 plication of the international reserve allow-
13 ance program pursuant to subpart 2 is
14 technically and administratively feasible
15 and appropriate to achieve the purposes of
16 this part, taking into account the energy
17 and greenhouse gas intensity of the indus-
18 trial sector that produces the good, as
19 measured consistent with section
20 763(b)(2)(A)(ii), and the ability of such
21 producers to pass on cost increases and
22 other appropriate factors.

23 “(B) RULE OF CONSTRUCTION.—A deter-
24 mination of the Administrator under subpara-
25 graph (A)(iv) shall not be considered to be a de-

1 termination of the President under section
2 767(b).

3 “(6) NAICS.—The term ‘NAICS’ means the
4 North American Industrial Classification System of
5 2002.

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

11 **“Subpart 1—Emission Allowance Rebate Program**

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

13 “(a) LIST.—

14 “(1) INITIAL LIST.—Not later than June 30,
15 2011, the Administrator shall publish in the Federal
16 Register a list of eligible industrial sectors pursuant
17 to subsection (b). Such list shall include the amount
18 of the emission allowance rebate per unit of produc-
19 tion that shall be provided to entities in each eligible
20 industrial sector in the following two calendar years
21 pursuant to section 764.

22 “(2) SUBSEQUENT LISTS.—Not later than Feb-
23 ruary 1, 2013, and every four years thereafter, the
24 Administrator shall publish in the Federal Register

1 an updated version of the list published under para-
2 graph (1).

3 “(b) ELIGIBLE INDUSTRIAL SECTORS.—

4 “(1) IN GENERAL.—Not later than June 30,
5 2011, the Administrator shall promulgate a rule des-
6 ignating, based on the criteria under paragraph (2),
7 the industrial sectors eligible for emission allowance
8 rebates under this subpart.

9 “(2) PRESUMPTIVELY ELIGIBLE INDUSTRIAL
10 SECTORS.—

11 “(A) ELIGIBILITY CRITERIA.—

12 “(i) IN GENERAL.—An owner or oper-
13 ator of an entity shall be eligible to receive
14 emission allowance rebates under this sub-
15 part if such entity is in an industrial sector
16 that is included in a six-digit classification
17 of the NAICS that meets the criteria in
18 both clauses (ii) and (iii), or the criteria in
19 clause (iv).

20 “(ii) ENERGY OR GREENHOUSE GAS
21 INTENSITY.—As determined by the Admin-
22 istrator, the industrial sector had—

23 “(I) an energy intensity of at
24 least 5 percent, calculated by dividing
25 the cost of purchased electricity and

1 fuel costs of the sector by the value of
2 the shipments of the sector, based on
3 data described in subparagraph (D);
4 or

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

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

19 “(bb) the value of the ship-
20 ments of the sector, based on
21 data described in subparagraph
22 (D).

23 “(iii) TRADE INTENSITY.—As deter-
24 mined by the Administrator, the industrial
25 sector had a trade intensity of at least 15

1 percent, calculated by dividing the value of
2 the total imports and exports of such sec-
3 tor by the value of the shipments plus the
4 value of imports of such sector, based on
5 data described in subparagraph (D).

6 “(iv) VERY HIGH ENERGY OR GREEN-
7 HOUSE GAS INTENSITY.—As determined by
8 the Administrator, the industrial sector
9 had an energy or greenhouse gas intensity,
10 as calculated under clause (ii)(I) or (II), of
11 at least 20 percent.

12 “(B) METAL AND PHOSPHATE PRODUC-
13 TION CLASSIFIED UNDER MORE THAN ONE
14 NAICS CODE.—For purposes of this section, the
15 Administrator shall—

16 “(i) aggregate data for the
17 beneficiation or other processing (including
18 agglomeration) of metal ores, including
19 iron and copper ores, soda ash, or phos-
20 phate with subsequent steps in the process
21 of metal and phosphate manufacturing, re-
22 gardless of the NAICS code under which
23 such activity is classified; and

24 “(ii) aggregate data for the manufac-
25 turing of steel with the manufacturing of

1 steel pipe and tube made from purchased
2 steel in a nonintegrated process.

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

5 “(D) DATA SOURCES.—

6 “(i) ELECTRICITY AND FUEL COSTS,
7 VALUE OF SHIPMENTS.—The Adminis-
8 trator shall determine electricity and fuel
9 costs and the value of shipments under
10 this subsection from data from the United
11 States Census Annual Survey of Manufac-
12 turers. The Administrator shall take the
13 average of data from as many of the years
14 of 2004, 2005, and 2006 for which such
15 data are available. If such data are un-
16 available, the Administrator shall make a
17 determination based upon 2002 or 2006
18 data from the most detailed industrial clas-
19 sification level of Energy Information
20 Agency’s Manufacturing Energy Consump-
21 tion Survey (using 2006 data if it is avail-
22 able) and the 2002 or 2007 Economic Cen-
23 sus of the United States (using 2007 data
24 if it is available). If data from the Manu-
25 facturing Energy Consumption Survey or

1 Economic Census are unavailable for any
2 sector at the six-digit classification level in
3 the NAICS, then the Administrator may
4 extrapolate the information necessary to
5 determine the eligibility of a sector under
6 this paragraph from available Manufac-
7 turing Energy Consumption Survey or
8 Economic Census data pertaining to a
9 broader industrial category classified in the
10 NAICS. If data relating to the
11 beneficiation or other processing (including
12 agglomeration) of metal ores, including
13 iron and copper ores, soda ash, or phos-
14 phate are not available from the specified
15 data sources, the Administrator shall use
16 the best available Federal or State govern-
17 ment data and may use, to the extent nec-
18 essary, representative data submitted by
19 entities that perform such beneficiation or
20 other processing (including agglomeration),
21 in making a determination. Fuel cost data
22 shall not include the cost of fuel used as
23 feedstock by an industrial sector.

24 “(ii) IMPORTS AND EXPORTS.—The
25 Administrator shall base the value of im-

1 ports and exports under this subsection on
2 United States International Trade Com-
3 mission data. The Administrator shall take
4 the average of data from as many of the
5 years of 2004, 2005, and 2006 for which
6 such data are available. If data from the
7 United States International Trade Com-
8 mission are unavailable for any sector at
9 the six-digit classification level in the
10 NAICS, then the Administrator may ex-
11 trapolate the information necessary to de-
12 termine the eligibility of a sector under
13 this paragraph from available United
14 States International Trade Commission
15 data pertaining to a broader industrial cat-
16 egory classified in the NAICS.

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

22 “(iv) GREENHOUSE GAS EMISSION
23 CALCULATIONS.—When calculating the
24 tons of carbon dioxide equivalent green-
25 house gas emissions for each sector under

1 subparagraph (A)(ii)(II)(aa), the Adminis-
2 trator—

3 “(I) shall use the best available
4 data from as many of the years 2004,
5 2005, and 2006 for which such data
6 is available; and

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

13 “(3) ADMINISTRATIVE DETERMINATION OF AD-
14 DITIONAL ELIGIBLE INDUSTRIAL SECTORS.—

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

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

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

1 “(B) INDIVIDUAL SHOWING PETITION.—

2 “(i) PETITION.—In addition to des-
3 ignation under paragraph (2) or subpara-
4 graph (A) of this paragraph, the owner or
5 operator of an entity in an industrial sec-
6 tor may petition the Administrator to des-
7 ignate as eligible industrial sectors under
8 this subpart an entity or a group of enti-
9 ties that—

10 “(I) represent a subsector of a
11 six-digit section of the NAICS code;
12 and

13 “(II) meet the eligibility criteria
14 in both clauses (ii) and (iii) of para-
15 graph (2)(A), or the eligibility criteria
16 in clause (iv) of paragraph (2)(A).

17 “(ii) DATA.—In making a determina-
18 tion under this subparagraph, the Admin-
19 istrator shall consider data submitted by
20 the petitioner that is specific to the entity,
21 data solicited by the Administrator from
22 other entities in the subsector, if such
23 other entities exist, and data specified in
24 paragraph (2)(D).

1 “(iii) BASIS OF SUBSECTOR DETER-
2 MINATION.—The Administrator shall de-
3 termine an entity or group of entities to be
4 a subsector of a six-digit section of the
5 NAICS code based only upon the products
6 manufactured and not the industrial pro-
7 cess by which the products are manufac-
8 tured, except that the Administrator may
9 determine an entity or group of entities
10 that manufacture a product from primarily
11 virgin material to be a separate subsector
12 from another entity or group of entities
13 that manufacture the same product pri-
14 marily from recycled material.

15 “(iv) USE OF MOST RECENT DATA.—
16 In determining whether to designate a sec-
17 tor or subsector as an eligible industrial
18 sector under this subparagraph, the Ad-
19 ministrator shall use the most recent data
20 available from the sources described in
21 paragraph (2)(D), rather than the data
22 from the years specified in paragraph
23 (2)(D), to determine the trade intensity of
24 such sector or subsector, but only for de-
25 termining such trade intensity.

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

5 **“SEC. 764. DISTRIBUTION OF EMISSION ALLOWANCE RE-**
6 **BATES.**

7 “(a) DISTRIBUTION SCHEDULE.—

8 “(1) IN GENERAL.—For each vintage year, the
9 Administrator shall distribute pursuant to this sec-
10 tion emission allowances made available under sec-
11 tion 782(e), no later than October 31 of the pre-
12 ceding calendar year. The Administrator shall make
13 such annual distributions to the owners and opera-
14 tors of each entity in an eligible industrial sector in
15 the amount of emission allowances calculated under
16 subsection (b), except that—

17 “(A) for vintage years 2012 and 2013, the
18 distribution for a covered entity shall be pursu-
19 ant to the entity’s indirect carbon factor as cal-
20 culated under subsection (b)(3);

21 “(B) for vintage year 2026 and thereafter,
22 the distribution shall be pursuant to the
23 amount calculated under subsection (b) multi-
24 plied by, except as modified by the President
25 pursuant to section 767(d)(1)(C) for a sector—

- 1 “(i) 90 percent for vintage year 2026;
2 “(ii) 80 percent for vintage year
3 2027;
4 “(iii) 70 percent for vintage year
5 2028;
6 “(iv) 60 percent for vintage year
7 2029;
8 “(v) 50 percent for vintage year 2030;
9 “(vi) 40 percent for vintage year
10 2031;
11 “(vii) 30 percent for vintage year
12 2032;
13 “(viii) 20 percent for vintage year
14 2033;
15 “(ix) 10 percent for vintage year
16 2034; and
17 “(x) 0 percent for vintage year 2035
18 and thereafter.

19 “(2) RESUMPTION OF REDUCTION.—If the
20 President has modified the percentage stated in
21 paragraph (1)(B) under section 767(d)(1)(C), and
22 the President subsequently makes a determination
23 under section 767(c) for an eligible industrial sector
24 that more than 85 percent of United States imports
25 for that sector are produced or manufactured in

1 countries that have met at least one of the criteria
2 in that section, then the 10-year reduction schedule
3 set forth in paragraph (1)(B) of this subsection shall
4 begin in the next vintage year, with the percentage
5 reduction based on the amount of the distribution of
6 emission allowances under this section in the pre-
7 vious year.

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

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

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

1 “(B) the owner or operator of such facility
2 shall return to the Administrator all allowances
3 that have been distributed to it for future vin-
4 tage years and a pro-rated amount of allow-
5 ances distributed to the facility under this sec-
6 tion for the vintage year in which the facility
7 ceases to be in an eligible industrial sector des-
8 ignated under section 763.

9 “(b) CALCULATION OF DIRECT AND INDIRECT CAR-
10 BON FACTORS.—

11 “(1) IN GENERAL.—

12 “(A) COVERED ENTITIES.—Except as pro-
13 vided in subsection (a), for covered entities that
14 are in eligible industrial sectors, the amount of
15 emission allowance rebates shall be based on
16 the sum of the covered entity’s direct and indi-
17 rect carbon factors.

18 “(B) OTHER ELIGIBLE ENTITIES.—For
19 entities that are in eligible industrial sectors
20 but are not covered entities, the amount of
21 emission allowance rebates shall be based on
22 the entity’s indirect carbon factor.

23 “(C) NEW ENTITIES.—Not later than 2
24 years after the date of enactment of this title,
25 the Administrator shall issue regulations gov-

1 erning the distribution of emission allowance re-
2 bates for the first and second years of operation
3 of a new entity in an eligible industrial sector.

4 These regulations shall provide for—

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

8 “(ii) an adjustment in the third and
9 fourth years of operation to reconcile the
10 total amount of emission allowance rebates
11 received during the first and second years
12 of operation to the amount the entity
13 would have received during the first and
14 second years of operation had the appro-
15 priate data been available.

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

19 “(A) the average annual output of the cov-
20 ered entity for the two years preceding the year
21 of the distribution; and

22 “(B) the most recent calculation of the av-
23 erage direct greenhouse gas emissions (ex-
24 pressed in tons of carbon dioxide equivalent)
25 per unit of output for all covered entities in the

1 sector, as determined by the Administrator
2 under paragraph (4).

3 “(3) INDIRECT CARBON FACTOR.—

4 “(A) IN GENERAL.—The indirect carbon
5 factor for an entity for a vintage year is the
6 product obtained by multiplying the average an-
7 nual output of the entity for the two years pre-
8 ceeding the year of the distribution by both the
9 electricity emissions intensity factor determined
10 pursuant to subparagraph (B) and the elec-
11 tricity efficiency factor determined pursuant to
12 subparagraph (C) for the year concerned.

13 “(B) ELECTRICITY EMISSIONS INTENSITY
14 FACTOR.—

15 “(i) IN GENERAL.—Each person sell-
16 ing electricity to the owner or operator of
17 an entity in any sector designated as an el-
18 igible industrial sector under section
19 763(b) shall provide the owner or operator
20 of the entity and the Administrator, on an
21 annual basis, the electricity emissions in-
22 tensity factor for the entity. The electricity
23 emissions intensity factor for the entity,
24 expressed in tons of carbon dioxide equiva-

1 lents per kilowatt hour, is determined by
2 dividing—

3 “(I) the annual sum of the hour-
4 ly product of—

5 “(aa) the electricity pur-
6 chased by the entity from that
7 person in each hour (expressed in
8 kilowatt hours); multiplied by

9 “(bb) the marginal or
10 weighted average tons of carbon
11 dioxide equivalent per kilowatt
12 hour that are reflected in the
13 electricity charges to the entity,
14 as determined by the entity’s re-
15 tail rate arrangements; by

16 “(II) the total kilowatt hours of
17 electricity purchased by the entity
18 from that person during that year.

19 “(ii) USE OF OTHER DATA TO DETER-
20 MINE FACTOR.—Where it is not possible to
21 determine the precise electricity emissions
22 intensity factor for an entity using the
23 methodology in clause (i), the person sell-
24 ing electricity shall use the monthly aver-
25 age data reported by the Energy Informa-

1 tion Administration or collected and re-
2 ported by the Administrator for the utility
3 serving the entity to determine the elec-
4 tricity emissions intensity factor.

5 “(C) ELECTRICITY EFFICIENCY FACTOR.—

6 The electricity efficiency factor is the average
7 amount of electricity (in kilowatt hours) used
8 per unit of output for all entities in the relevant
9 sector, as determined by the Administrator
10 based on the best available data, including data
11 provided under paragraph (6).

12 “(D) INDIRECT CARBON FACTOR REDUC-
13 TION.—If an electricity provider received a free
14 allocation of emission allowances pursuant to
15 section 782(a), the Administrator shall adjust
16 the indirect carbon factor to avoid rebates to
17 the eligible entity for costs that the Adminis-
18 trator determines were not incurred by the eli-
19 gible entity because the allowances were freely
20 allocated to the eligible entity’s electricity pro-
21 vider and used for the benefit of industrial con-
22 sumers.

23 “(4) GREENHOUSE GAS INTENSITY CALCULA-
24 TIONS.—The Administrator shall calculate the aver-
25 age direct greenhouse gas emissions (expressed in

1 tons of carbon dioxide equivalent) per unit of output
2 and the electricity efficiency factor for all covered
3 entities in each eligible industrial sector every four
4 years, using an average of the four most recent
5 years of the best available data. For purposes of the
6 lists required to be published no later than February
7 1, 2013, the Administrator shall use the best avail-
8 able data for the maximum number of years, up to
9 4 years, for which data are available.

10 “(5) ENSURING EFFICIENCY IMPROVEMENTS.—

11 When making greenhouse gas calculations, the Ad-
12 ministrator shall—

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

19 “(B) limit the electricity emissions inten-
20 sity factor, calculated under paragraph (3)(B)
21 and resulting from a change in electricity sup-
22 ply, for any entity to an amount that is not
23 greater than it was during any previous year;
24 and

1 “(C) limit the electricity efficiency factor,
2 calculated under paragraph (3)(C), for any eli-
3 gible industrial sector to an amount that is not
4 greater than it was in any previous calculation
5 under this subsection.

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

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

11 “(B) each owner or operator of an entity
12 in an eligible industrial sector and each depart-
13 ment, agency, and instrumentality of the
14 United States shall provide the Administrator
15 with such information as the Administrator
16 finds necessary to determine the direct carbon
17 factor and the indirect carbon factor for each
18 entity subject to this section.

19 “(c) TOTAL MAXIMUM DISTRIBUTION.—Notwith-
20 standing subsections (a) and (b), the Administrator shall
21 not distribute more allowances for any vintage year pursu-
22 ant to this section than are allocated for use under this
23 subpart pursuant to section 782(e) for that vintage year.
24 For any vintage year for which the total emission allow-
25 ance rebates calculated pursuant to this section exceed the

1 number of allowances allocated pursuant to section 782(e),
2 the Administrator shall reduce each entity's distribution
3 on a pro rata basis so that the total distribution under
4 this section equals the number of allowances allocated
5 under section 782(e).

6 “(d) IRON AND STEEL SECTOR.—For purposes of
7 this section, the Administrator shall consider as in dif-
8 ferent industrial sectors—

9 “(1) entities using integrated iron and
10 steelmaking technologies (including coke ovens, blast
11 furnaces, and other iron-making technologies); and

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

14 “(e) METAL, SODA ASH, OR PHOSPHATE PRODUC-
15 TION CLASSIFIED UNDER MORE THAN ONE NAICS
16 CODE.—For purposes of this section, the Administrator
17 shall not aggregate data for the beneficiation or other
18 processing (including agglomeration) of metal ores, soda
19 ash, or phosphate with subsequent steps in the process
20 of metal, soda ash, or phosphate manufacturing. The Ad-
21 ministrator shall consider the beneficiation or other proc-
22 essing (including agglomeration) of metal ores, soda ash,
23 or phosphate to be in separate industrial sectors from the
24 metal, soda ash, or phosphate manufacturing sectors. In-
25 dustrial sectors that beneficiate or otherwise process (in-

1 cluding agglomeration) metal ores, soda ash, or phosphate
2 shall not receive emission allowance rebates under this sec-
3 tion related to the activity of extracting metal ores, soda
4 ash, or phosphate.

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

12 **“Subpart 2—Promoting International Reductions in**
13 **Industrial Emissions**

14 **“SEC. 765. INTERNATIONAL NEGOTIATIONS.**

15 “(a) FINDING.—Congress finds that the purposes of
16 this subpart, as set forth in section 761(c), can be most
17 effectively addressed and achieved through agreements ne-
18 gotiated between the United States and foreign countries.

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

1 “(c) NOTIFICATION OF FOREIGN COUNTRIES.—

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

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

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

13 “(B) a declaration—

14 “(i) requesting the foreign country to
15 take appropriate measures to limit the
16 greenhouse gas emissions of the foreign
17 country; and

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

1 **“SEC. 766. UNITED STATES NEGOTIATING OBJECTIVES**
2 **WITH RESPECT TO MULTILATERAL ENVIRON-**
3 **MENTAL NEGOTIATIONS.**

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

7 “(1) to reach an internationally binding agree-
8 ment in which all major greenhouse gas-emitting
9 countries contribute equitably to the reduction of
10 global greenhouse gas emissions;

11 “(2)(A) to include in such international agree-
12 ment provisions that recognize and address the com-
13 petitive imbalances that lead to carbon leakage and
14 may be created between parties and non-parties to
15 the agreement in domestic and export markets; and

16 “(B) not to prevent parties to such agreement
17 from addressing the competitive imbalances that
18 lead to carbon leakage and may be created by the
19 agreement among parties to the agreement in do-
20 mestic and export markets ; and

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

1 national reserve allowance program for the eligible
2 industrial sector under section 768;

3 “(3) to the extent the President determines that
4 an international reserve allowance program would
5 not be useful for the eligible industrial sector be-
6 cause its exposure to carbon leakage is the result of
7 competition in export markets with goods produced
8 in countries not implementing similar greenhouse
9 gas emission reduction policies, an identification of,
10 and to the extent appropriate a description of how
11 the President will implement, alternative actions or
12 programs consistent with the purposes of this sub-
13 part (and, in such case, the President may deter-
14 mine not to apply an international reserve allowance
15 program to the eligible industrial sector under sub-
16 section (b)); and

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

23 “(b) PRESIDENTIAL DETERMINATION.—

24 “(1) IN GENERAL.—If, by January 1, 2018, a
25 multilateral agreement consistent with the negoti-

1 ating objectives set forth in section 766 has not en-
2 tered into force with respect to the United States,
3 the President shall establish an international reserve
4 allowance program for each eligible industrial sector
5 to the extent provided under section 768 unless—

6 “(A) the President determines and certifies
7 to the Congress with respect to such eligible in-
8 dustrial sector that such program would not be
9 in the national economic interest or environ-
10 mental interest of the United States; and

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

16 “(2) CONTENTS OF JOINT RESOLUTION.—For
17 purposes of this subsection, the term ‘joint resolu-
18 tion’ means only a joint resolution of the two Houses
19 of Congress, the matter after the resolving clause of
20 which is as follows: ‘That the Congress approves the
21 determination of the President under section
22 768(b)(1)(A) of the Clean Air Act transmitted to the
23 Congress on _____.’, the blank space being
24 filled with the appropriate date.

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

8 “(4) RULE OF CONSTRUCTION.—For purposes
9 of this section and section 768, if the President
10 transmits a multilateral agreement to Congress (re-
11 gardless of whether it is transmitted as a treaty for
12 ratification by the Senate or another international
13 agreement for implementation by law enacted by the
14 Congress) indicating that the agreement is con-
15 sistent with the negotiating objectives set forth in
16 section 766, such agreement will be considered to be
17 consistent with such negotiating objectives as of the
18 date on which the Senate ratifies the treaty, or legis-
19 lation is enacted implementing such other agree-
20 ment, unless the Senate (in the case of ratification)
21 or the implementing legislation expressly provides
22 that the multilateral agreement shall not be treated
23 as consistent with such negotiating objectives for
24 purposes of this section and section 768.

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

12 “(1) The country is a party to an international
13 agreement to which the United States is a party
14 that includes a nationally enforceable and economy-
15 wide greenhouse gas emissions reduction commit-
16 ment for that country that is at least as stringent
17 as that of the United States.

18 “(2) The country is a party to a multilateral or
19 bilateral emission reduction agreement for that sec-
20 tor to the which the United States is a party.

21 “(3) The country has an annual energy or
22 greenhouse gas intensity, as described in section
23 763(b)(2)(A)(ii), for the sector that is equal to or
24 less than the energy or greenhouse gas intensity for
25 such industrial sector in the United States in the

1 most recent calendar year for which data are avail-
2 able.

3 “(d) EFFECT OF PRESIDENTIAL DETERMINATION.—

4 “(1) REQUIRED ACTIONS.—If the President
5 makes a determination under subsection (c) with re-
6 spect to an eligible industrial sector that 85 percent
7 or less of United States imports of covered goods
8 with respect to the sector are produced or manufac-
9 tured in countries that have met one or more of the
10 criteria in subsection (c), then the President shall,
11 not later than June 30, 2018, and every four years
12 thereafter—

13 “(A) assess the extent to which the emis-
14 sion allowance rebates provided pursuant to
15 subpart 1 and the benefit received by that in-
16 dustrial sector from the provision of free allow-
17 ances to electricity providers pursuant to sec-
18 tion 782(a) have mitigated or addressed, or
19 could mitigate or address, carbon leakage in
20 that sector;

21 “(B) assess the extent to which an inter-
22 national reserve allowance program has miti-
23 gated or addressed, or could mitigate or ad-
24 dress, carbon leakage in that sector; and

25 “(C) with respect to that sector—

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

4 “(ii) apply or continue to apply an
5 international reserve allowance program
6 under section 768 with respect to imports
7 of covered goods with respect to that sec-
8 tor.

9 “(2) PROHIBITED ACTIONS.—If the President
10 makes a determination under subsection (c) with re-
11 spect to an eligible industrial sector that more than
12 85 percent of United States imports of covered
13 goods with respect to the sector are produced or
14 manufactured in countries that have met one or
15 more of the criteria in subsection (c), then the Presi-
16 dent may not apply or continue to apply an inter-
17 national reserve allowance program under section
18 768 with respect to imports of covered goods with
19 respect to that sector.

20 “(e) REPORT TO CONGRESS.—Not later than June
21 30, 2018, and every four years thereafter, the President
22 shall transmit to the Congress a report providing notice
23 of any determination made under subsection (c), explain-
24 ing the reasons for such determination, and identifying the
25 actions taken by the President under subsection (d).

1 **“SEC. 768. INTERNATIONAL RESERVE ALLOWANCE PRO-**
2 **GRAM.**

3 “(a) ESTABLISHMENT.—

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

8 “(A) establishing an international reserve
9 allowance program for the sale, exchange, pur-
10 chase, transfer, and banking of international re-
11 serve allowances for covered goods with respect
12 to the eligible industrial sector;

13 “(B) ensuring that the price for pur-
14 chasing the international reserve allowances
15 from the United States on a particular day is
16 equivalent to the auction clearing price for
17 emission allowances under section 722 for the
18 most recent emission allowance auction;

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

23 “(D) requiring the submission of appro-
24 priate amounts of such allowances for covered
25 goods with respect to the eligible industrial sec-

1 tor that enter the customs territory of the
2 United States;

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

6 “(i) any country determined to meet
7 any of the standards provided in section
8 767(e);

9 “(ii) any foreign country that the
10 United Nations has identified as among
11 the least developed of developing countries;
12 or

13 “(iii) any foreign country that the
14 President has determined to be responsible
15 for less than 0.5 percent of total global
16 greenhouse gas emissions and less than 5
17 percent of United States imports of cov-
18 ered goods with respect to the eligible in-
19 dustrial sector;

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

1 “(G) establishing procedures that prevent
2 circumvention of the international reserve allow-
3 ance requirement for covered goods with respect
4 to the eligible industrial sector that are manu-
5 factured or processed in more than one foreign
6 country.

7 “(2) PURPOSE OF PROGRAM.—The Adminis-
8 trator shall establish the program under paragraph
9 (1) consistent with international agreements to
10 which the United States is a party, in a manner that
11 minimizes the likelihood of carbon leakage as a re-
12 sult of differences between—

13 “(A) the direct and indirect costs of com-
14 plying with section 722; and

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

20 “(b) EMISSION ALLOWANCE REBATES.—In estab-
21 lishing a general methodology for purposes of subsection
22 (a)(1)(C), the Administrator shall include an adjustment
23 to the quantity of international reserve allowances based
24 on the value of emission allowance rebates distributed
25 under subpart 1 and the benefit received by the eligible

1 industrial sector concerned from the provision of free al-
2 lowances to electricity providers pursuant to section
3 782(a) and may, if appropriate, determine that the quan-
4 tity of international reserve allowances should be reduced
5 as low as to zero.

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

10 “(d) COVERED ENTITIES.—International reserve al-
11 lowances may not be used by covered entities to comply
12 with section 722.

13 **“SEC. 769. IRON AND STEEL SECTOR.**

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

16 “(1) entities using integrated iron and
17 steelmaking technologies (including coke ovens, blast
18 furnaces, and other iron-making technologies); and

19 “(2) entities using electric arc furnace tech-
20 nologies.”.

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

1 **SEC. 422. INCREASED FUNDING FOR ENERGY WORKER**
2 **TRAINING PROGRAM.**

3 (a) AUTHORIZATION.—Section 171(e)(8) of the
4 Workforce Investment Act of 1998 (29 U.S.C. 2916(e)(8))
5 is amended by striking “\$125,000,000” and inserting
6 “\$150,000,000”.

7 (b) ESTABLISHMENT OF FUND.—There is hereby es-
8 tablished in the Treasury a separate account that shall
9 be known as the Energy Efficiency and Renewable Energy
10 Worker Training Fund.

11 (c) AVAILABILITY OF AMOUNTS.—Subject to subtitle
12 F of title IV, all amounts deposited into the Energy Effi-
13 ciency and Renewable Energy Worker Training Fund shall
14 be available to the Secretary to carry out section 171(e)(8)
15 of the Workforce Investment Act of 1998 (29 U.S.C.
16 2916(e)(8)) subject to further appropriation.

Page 955, after line 19, insert the following new sec-
tions:

17 **SEC. 423. DEVELOPMENT OF INFORMATION AND RE-**
18 **SOURCES CLEARINGHOUSE FOR VOCA-**
19 **TIONAL EDUCATION AND JOB TRAINING IN**
20 **RENEWABLE ENERGY SECTORS.**

21 (a) DEVELOPMENT OF CLEARINGHOUSE.—Not later
22 than 18 months after the date of enactment of this Act,
23 the Secretary of Labor, in collaboration with the Secretary

1 of Energy and the Secretary of Education, shall develop
2 an internet based information and resources clearinghouse
3 to aid career and technical education and job training pro-
4 grams for the renewable energy sectors. In establishing
5 the clearinghouse, the Secretary shall—

6 (1) collect and provide information that ad-
7 dresses the consequences of rapid changes in tech-
8 nology and regional disparities for renewable energy
9 training programs and provides best practices for
10 training and education in light of such changes and
11 disparities;

12 (2) place an emphasis on facilitating collabora-
13 tion between the renewable energy industry and job
14 training programs and on identifying industry and
15 technological trends and best practices, to better
16 help job training programs maintain quality and rel-
17 evance; and

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

21 (b) SOLICITATION AND CONSULTATION.—In devel-
22 oping the clearinghouse pursuant to subsection (a), the
23 Secretary shall solicit information and expertise from busi-
24 nesses and organizations in the renewable energy sector
25 and from institutions of higher education, career and tech-

1 nical schools, and community colleges that provide train-
2 ing in the renewable energy sectors. The Secretary shall
3 solicit a comprehensive peer review of the clearinghouse
4 by such entities not less than once every 2 years. Nothing
5 in this subsection should be interpreted to require the di-
6 vulgence of proprietary or competitive information.

7 (c) CONTENTS OF CLEARINGHOUSE.—

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

12 (A) Solar energy systems.

13 (B) Wind energy systems.

14 (C) Energy transmission systems.

15 (D) Geothermal systems of energy and
16 heating.

17 (E) Energy efficiency technical training.

18 (2) ADDITIONAL REQUIREMENTS.—In addition
19 to the information required in subsection (a), each
20 section of the clearinghouse shall include information
21 on basic environmental science and processes needed
22 to understand renewable energy systems, Federal
23 government and industry resources, and points of
24 contact to aid institutions in the development of
25 placement programs for apprenticeships and post

1 graduation opportunities, and information and tips
2 about a green workplace, energy efficiency, and rel-
3 evant environmental topics and information on avail-
4 able industry recognized certifications in each area.

5 (d) DISSEMINATION.—The clearinghouse shall be
6 made available via the Internet to the general public. No-
7 tice of the completed clearinghouse and any major revi-
8 sions thereto shall also be provided—

9 (1) to each Member of Congress; and

10 (2) on the websites of the Departments of Edu-
11 cation, Energy, and Labor.

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

15 **SEC. 424. MONITORING PROGRAM EFFECTIVENESS.**

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

20 **SEC. 424A. GREEN CONSTRUCTION CAREERS DEMONSTRATION PROJECT.**

21
22 (a) ESTABLISHMENT AND AUTHORITY.—The Sec-
23 retary of Labor, in consultation with the Secretary of En-
24 ergy, shall, not later than 180 days after the enactment
25 of this Act, establish a Green Construction Careers dem-

1 onstration project by rules, regulations, and guidance in
2 accordance with the provisions of this section. The purpose
3 of the demonstration project shall be to promote middle
4 class careers and quality employment practices in the
5 green construction sector among targeted workers and to
6 advance efficiency and performance on construction
7 projects related to this Act. In order to advance these pur-
8 poses, the Secretary shall identify projects, including resi-
9 dential retrofitting projects, funded directly by or assisted
10 in whole or in part by or through the Federal Government
11 pursuant to this Act or by any other entity established
12 in accordance with this Act, to which all of the following
13 shall apply.

14 (b) REQUIREMENTS.—The Secretaries may establish
15 such terms and conditions for the demonstration projects
16 as the Secretaries determine are necessary to meet the
17 purposes of subsection (a), including establishing min-
18 imum proportions of hours to be worked by targeted work-
19 ers on such projects. The Secretaries may require the con-
20 tractors and subcontractors performing construction serv-
21 ices on the project to comply with the terms and conditions
22 as a condition of receiving funding or assistance from the
23 Federal Government under this Act.

24 (c) EVALUATION.—The Secretaries shall evaluate the
25 demonstration projects against the purposes of this section

1 at the end of 3 years from initiation of the demonstration
2 project. If the Secretaries determine that the demonstra-
3 tion projects have been successful, the Secretaries may
4 identify further projects to which of the provisions of this
5 section shall apply.

6 (d) GAO REPORT.—The Comptroller General shall
7 prepare and submit a report to the Committee on Health,
8 Education, Labor and Pensions and the Committee on
9 Energy and Natural Resources of the Senate and the
10 Committee on Education and Labor and the Committee
11 on Energy and Commerce of the House of Representatives
12 not later than 5 years after the date of enactment of this
13 Act, which shall advise the committees of the results of
14 the demonstration projects and make appropriate rec-
15 ommendations.

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

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

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

4 (B) is a member of a family that received a
5 total family income that, during the 2-year period
6 prior to employment on the project or admission to
7 the pre-apprenticeship program, did not exceed 200
8 percent of the Federal poverty guidelines (exclusive
9 of unemployment compensation, child support pay-
10 ments, payments described in section 101(25)(A) of
11 the Workforce Investment Act (29 U.S.C.
12 2801(25)(A)), and old-age and survivors insurance
13 benefits received under section 202 of the Social Se-
14 curity Act (42 U.S.C. 402); or

15 (3) is a displaced homemaker, as such term is
16 defined in section 3(10) of the Carl D. Perkins Ca-
17 reer and Technical Education Act of 2006 (20
18 U.S.C. 2302(10)).

19 (f) **QUALIFIED PRE-APPRENTICESHIP PROGRAM.**—A
20 qualified pre-apprenticeship program is a pre-apprentice-
21 ship program that has demonstrated an ability to recruit,
22 train, and prepare for admission to apprenticeship pro-
23 grams individuals who are targeted workers.

24 (g) **QUALIFIED APPRENTICESHIP AND OTHER**
25 **TRAINING PROGRAMS.**—

1 (1) PARTICIPATION BY EACH CONTRACTOR RE-
2 QUIRED.—Each contractor and subcontractor that
3 seeks to provide construction services on projects
4 identified by the Secretaries pursuant to subsection
5 (a) shall submit adequate assurances with its bid or
6 proposal that it participates in a qualified appren-
7 ticeship or other training program, with a written
8 arrangement with a qualified pre-apprenticeship pro-
9 gram, for each craft or trade classification of worker
10 that it intends to employ to perform work on the
11 project.

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

14 (A) IN GENERAL.—For purposes of this
15 section, the term “qualified apprenticeship or
16 other training program” means an apprentice-
17 ship or other training program that qualifies as
18 an employee welfare benefit plan, as defined in
19 section 3(1) of the Employee Retirement In-
20 come Security Act of 1974 (29 U.S.C.
21 1002(1)).

22 (B) CERTIFICATION OF OTHER PROGRAMS
23 IN CERTAIN LOCALITIES.—In the event that the
24 Secretary of Labor certifies that a qualified ap-
25 prenticeship or other training program (as de-

1 fined in subparagraph (A)) for a craft or trade
2 classification of workers that a prospective con-
3 tractor or subcontractor intends to employ, is
4 not operated in the locality where the project
5 will be performed, an apprenticeship or other
6 training program that is not an employee wel-
7 fare benefit plan (as defined in such section)
8 may be certified by the Secretary as a qualified
9 apprenticeship or other training program pro-
10 vided it is registered with the Office of Appren-
11 ticeship of the Department of Labor, or a State
12 apprenticeship agency recognized by the Office
13 of Apprenticeship for Federal purposes.

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

22 (i) LIMITATION.—The requirements of this section
23 shall not apply to any project funded under this Act in
24 American Samoa, Guam, the Commonwealth of the North-
25 ern Mariana Islands, the Commonwealth of Puerto Rico,

1 or the United States Virgin Islands, unless participation
2 is requested by the governor of such territories within 1
3 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:

4 “(B) Without regard to section 553 of title
5 5 of such Code, the Administrator may by rule
6 promulgate as final, to be effective until no
7 later than two years after the date of the enact-
8 ment of the American Clean Energy and Secu-
9 rity Act of 2009, any procedures that are sub-
10 stantially the same as the procedures governing
11 the Supplemental Nutrition Assistance Program
12 in section 273.2, 273.12, or 273.15 of title 7,
13 Code of Federal Regulations.

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

1 **SEC. 432. MODIFICATION OF EARNED INCOME CREDIT**
2 **AMOUNT FOR INDIVIDUALS WITH NO QUALI-**
3 **FYING CHILDREN.**

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

7 “(4) SPECIAL RULE FOR INDIVIDUALS WITH NO
8 QUALIFYING CHILDREN WHO ARE AFFECTED BY THE
9 AMERICAN CLEAN ENERGY AND SECURITY ACT OF
10 2009.—

11 “(A) IN GENERAL.—In the case of any
12 household which the Secretary determines expe-
13 rienced a reduction in purchasing power as a
14 result of the provisions of, or amendments
15 made by, the American Clean Energy and Secu-
16 rity Act of 2009 (determined without regard to
17 this paragraph and section 2201 of the Social
18 Security Act)—

19 “(i) INCREASE IN CREDIT PERCENT-
20 AGE AND PHASEOUT PERCENTAGE.—The
21 table contained in paragraph (1)(A) shall
22 be applied by substituting ‘15.3’ for ‘7.65’.

23 “(ii) INCREASE IN BEGINNING PHASE-
24 OUT AMOUNT.—The table contained in
25 paragraph (2)(A) shall be applied by sub-
26 stituting ‘\$11,640’ for ‘\$5,280’.

1 “(B) INFLATION ADJUSTMENT.—

2 “(i) IN GENERAL.—In the case of any
3 taxable year beginning after 2012, the
4 \$11,640 amount in subparagraph (A)(ii)
5 shall be increased by an amount equal to—

6 “(I) such dollar amount, multi-
7 plied by

8 “(II) the cost of living adjust-
9 ment determined under section 1(f)(3)
10 for the calendar year in which the tax-
11 able year begins determined by sub-
12 stituting ‘calendar year 2011’ for ‘cal-
13 endar year 1992’ in subparagraph (B)
14 thereof.

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

20 “(iii) COORDINATION WITH OTHER IN-
21 FLATION ADJUSTMENTS.—Paragraph (1)
22 of subsection (j) shall not apply to the dol-
23 lar amount substituted under subpara-
24 graph (A)(ii).”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 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:

1 (b) DEFINITION.—For the purposes of this section
2 the term “clean technology” means any technology or
3 service related to the qualifying activities identified in sec-
4 tion 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:

5 (f) ANNUAL REPORTS.—Not later than March 1,
6 2012, and annually thereafter, the President shall submit
7 to the appropriate congressional committees a report on
8 the assistance provided under this subtitle during the prior
9 fiscal year. Such report shall include—

1 (1) a description of the amount and value of al-
2 lowances distributed during the prior fiscal year;

3 (2) a description of each activity that received
4 assistance during the prior fiscal year, and a de-
5 scription of the anticipated and actual outcomes;

6 (3) an assessment of any adverse effects to
7 human health, safety, or welfare, the environment,
8 or natural resources as a result of activities sup-
9 ported under this subtitle;

10 (4) an assessment of the success of the assist-
11 ance provided under this subtitle to improving the
12 technical and institutional capacity to implement
13 substantial emissions reductions;

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

18 (6) an assessment whether any funds expended
19 for the benefit of any qualifying activity undermined
20 the protection of intellectual property rights for
21 clean technology, as formulated in the Agreement on
22 Trade-Related Aspects of Intellectual Property
23 Rights, referred to in section 101(d)(15) of the Uru-
24 guay Round Agreements Act (19 U.S.C.

1 3511(d)(15)) and applicable intellectual property
2 provisions of bilateral trade agreements.

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

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

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

8 (5) RESEARCH ON HURRICANES.—The author-
9 ized uses of allowances under this section shall in-
10 clude establishment of projects or programs to con-
11 duct research and monitoring on the effect of ongo-
12 ing climate change on the frequency and intensity of
13 hurricanes.

Page 1130, line 22, strike “There” and insert “Sub-
ject 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 “Sub-
ject 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:

1 **Subtitle F—Deficit Neutral**

2 **Budgetary Treatment**

3 **SEC. 496. DEFICIT NEUTRALITY.**

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

1 (b) AVAILABILITY.—Funds appropriated or made
2 available pursuant to sections 422(b), 467(b), and
3 480(b)(2) are only available for the purposes set forth
4 under this Act. Receipts in the Funds and appropriations
5 therefrom shall not be available and are precluded from
6 obligation for any other purpose.

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

10 (1) the revenue assumed to be deposited into
11 the Funds established under sections 422, 467, and
12 480, shall be attributed to this Act; and

13 (2) the authorization or availability of appro-
14 priations from the Funds shall be treated as new di-
15 rect spending and attributed to this Act.

16 (d) BUDGETARY TREATMENT.—For the purposes of
17 section 257 of the Balanced Budget and Emergency Def-
18 icit Control Act of 1985, the Funds, and amounts subse-
19 quently appropriated or made available for the purposes
20 for which such Funds were established, shall be deemed
21 to be included on the list of appropriations referenced
22 under section 250(c)(17) of that Act. Such appropriations
23 from each Fund shall not be in excess of the amounts de-
24 posited into the respective Fund in the previous year.

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

1 **TITLE V—AGRICULTURAL AND**
2 **FORESTRY RELATED OFFSETS**
3 **Subtitle A—Offset Credit Program**
4 **From Domestic Agricultural and**
5 **Forestry Sources**

6 **SEC. 501. DEFINITIONS.**

7 (a) IN GENERAL.—In this title:

8 (1) ADDITIONAL.—The term “additional”,
9 when used with respect to reductions or avoidance of
10 greenhouse gas emissions, or to sequestration of
11 greenhouse gases, means reductions, avoidance, or
12 sequestration that result in a lower level of net
13 greenhouse gas emissions or atmospheric concentra-
14 tions than would occur in the absence of an offset
15 project.

16 (2) ADDITIONALITY.—The term “additionality”
17 means the extent to which reductions or avoidance
18 of greenhouse gas emissions, or sequestration of
19 greenhouse gases, are additional.

20 (3) ADMINISTRATOR.—The term “Adminis-
21 trator” means the Administrator of the Environ-
22 mental Protection Agency.

23 (4) ADVISORY COMMITTEE.—The term “Advi-
24 sory Committee” means the USDA Greenhouse Gas
25 Emission Reduction and Sequestration Advisory

1 Committee established under section 1245(f) of the
2 Food Security Act of 1985 (16 U.S.C. 3845).

3 (5) GREENHOUSE GAS.—The term “greenhouse
4 gas” means any of the following:

5 (A) Carbon dioxide.

6 (B) Methane.

7 (C) Nitrous oxide.

8 (D) Sulfur hexafluoride.

9 (E) Hydrofluorocarbons from a chemical
10 manufacturing process at an industrial sta-
11 tionary source.

12 (F) Any perfluorocarbon.

13 (G) Nitrogen trifluoride.

14 (H) Any other anthropogenic gas des-
15 igned as a greenhouse gas by the Adminis-
16 trator.

17 (6) LEAKAGE.—The term “leakage” means a
18 significant and quantifiable increase in greenhouse
19 gas emissions, or a significant and quantifiable de-
20 crease in sequestration, which is caused by an offset
21 practice and occurs outside the boundaries of the
22 offset practice.

23 (7) OFFSET CREDIT.—The term “offset credit”
24 means a tradeable compliance instrument that—

1 (A) represents the reduction, avoidance, or
2 sequestration of 1 ton of carbon dioxide equiva-
3 lent; and

4 (B) is issued pursuant to this title.

5 (8) OFFSET PRACTICE.—The term “offset prac-
6 tice” means an activity that reduces, avoids, or se-
7 questers greenhouse gas emissions, and for which
8 offset credits may be issued pursuant to this title.

9 (9) OFFSET PRODUCER.—The term “offset pro-
10 ducer” means an owner, operator, landlord, tenant,
11 or sharecropper who has or shares responsibility for
12 ensuring that an offset practice is established and
13 maintained during the crediting period for purposes
14 of an offset credit.

15 (10) OFFSET PROJECT.—The term “offset
16 project” means a practice or set of practices that re-
17 duce or avoid greenhouse gas emissions, or sequester
18 greenhouse gases as implemented by an offset pro-
19 ducer.

20 (11) OFFSET PROJECT DEVELOPER.—The term
21 “offset project developer” means the offset producer
22 or designee of the offset producer.

23 (12) PRACTICE TYPE.—The term “practice
24 type” means a discrete category of offset practices
25 for which the Secretary develops a standardized

1 methodology to accurately estimate the amount of
2 greenhouse gas emissions reduced or avoided or
3 greenhouse gases sequestered.

4 (13) REVERSAL.—The term “reversal” means
5 an intentional or unintentional loss of sequestered
6 greenhouse gases to the atmosphere.

7 (14) SECRETARY.—The term “Secretary”
8 means the Secretary of Agriculture.

9 (15) SEQUESTRATION AND SEQUESTERED.—
10 The terms “sequestered” and “sequestration” mean
11 the separation, isolation, or removal of greenhouse
12 gases from the atmosphere, as determined by the
13 Secretary. The terms include biological sequestra-
14 tion, but do not include ocean fertilization tech-
15 niques.

16 (16) TERM OFFSET CREDIT.—The term “term
17 offset credit” means a compliance instrument au-
18 thorized under section 504(d).

19 (b) AGRICULTURAL AND FORESTRY EXCEPTION TO
20 DEFINITION OF CAPPED SECTOR.—For purposes of this
21 title and title III of this Act, and amendments made by
22 such titles, the term “capped sector” means a sector of
23 economic activity that directly emits capped emissions, in-
24 cluding the industrial sector, the electricity generation sec-
25 tor, the transportation sector, and the residential and

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

3 **SEC. 502. ESTABLISHMENT OF OFFSET CREDIT PROGRAM**
4 **FROM DOMESTIC AGRICULTURAL AND FOR-**
5 **ESTRY SOURCES.**

6 (a) ESTABLISHMENT.—Not later than 1 year after
7 the date of enactment of this title, the Secretary shall es-
8 tablish a program governing the generation of offset cred-
9 its from domestic agricultural and forestry sources.

10 (b) REQUIREMENTS.—The program described in sub-
11 section (a) shall—

12 (1) ensure that offset credits represent
13 verifiable and additional greenhouse gas emission re-
14 ductions or avoidance, or increases in sequestration;
15 and

16 (2) ensure that offset credits issued for seques-
17 tration offset projects are only issued for greenhouse
18 gas reductions that result in a permanent net reduc-
19 tion in atmospheric greenhouse gases.

20 (c) DUTIES OF SECRETARY.—In addition to the du-
21 ties described in subsection (a) and section 1245 of the
22 Food Security Act of 1985 (16 U.S.C. 3845), the Sec-
23 retary shall, with respect to practices relating to offset
24 credits from agricultural and forestry sources—

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

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

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

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

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

13 (6) provide technical assistance to offset project
14 developers using funds appropriated to the Con-
15 servation Operations account;

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

18 (8) establish rules for certification of implemen-
19 tation of offset project plans;

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

22 (10) conduct audits.

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

25 (a) LIST REQUIRED.—

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

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

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

17 (1) agricultural, grassland, and rangeland se-
18 questration and management practices, including—

19 (A) altered tillage practices;

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

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

1 (D) reduction in the frequency and dura-
2 tion of flooding of rice paddies;

3 (E) reduction in carbon emissions from or-
4 ganic soils;

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

7 (G) reduction in greenhouse gas emissions
8 due to changes in animal management prac-
9 tices, including dietary modifications;

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

12 (A) afforestation or reforestation of acre-
13 age that is not forested;

14 (B) forest management resulting in an in-
15 crease in forest carbon stores including but not
16 limited to harvested wood products;

17 (C) management of peatland or wetland;

18 (D) conservation of grassland and forested
19 land;

20 (E) improved forest management, includ-
21 ing accounting for carbon stored in wood prod-
22 ucts;

23 (F) reduced deforestation or avoided forest
24 conversion;

25 (G) urban tree-planting and maintenance;

1 (H) agroforestry; and

2 (I) adaptation of plant traits or new tech-
3 nologies that increase sequestration by forests;
4 and

5 (3) manure management and disposal, includ-
6 ing—

7 (A) waste aeration;

8 (B) biogas capture and combustion; and

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

11 (c) ADDITIONS AND REVISIONS TO LIST.—

12 (1) PERIODIC REVISION.—Not later than 2
13 years after the date of enactment of this title, and
14 every 2 years thereafter, the Secretary, after public
15 notice and opportunity for comment, shall add to
16 and revise the types of offset practices to the list es-
17 tablished under subsection (a) if those types of prac-
18 tices meet the standards for environmental integrity
19 that are consistent with the purposes of this title.

20 (2) CONSIDERATION OF PETITIONS.—The Sec-
21 retary shall—

22 (A) consider petitions to add types of off-
23 set practices to the list established under sub-
24 section (a); and

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

5 (3) TIME FOR CONSIDERATION OF PETI-
6 TIONS.—Not later than 1 year after the receipt of
7 a petition under paragraph (2), the Secretary shall
8 make a decision to either grant or deny the petition
9 and publish a written explanation of the reasons for
10 the Secretary's decision. The Secretary may not
11 deny a petition under this subsection on the basis of
12 inadequate Department of Agriculture resources at
13 the time of the review.

14 **SEC. 504. REQUIREMENTS FOR DOMESTIC AGRICULTURAL**
15 **AND FORESTRY PRACTICES.**

16 (a) METHODOLOGIES.—

17 (1) IN GENERAL; CONDITION.—In promulgating
18 regulations under section 502, the Secretary shall
19 establish methodologies for domestic agricultural
20 and forestry practices listed under section 503, if
21 the Secretary determines that methodologies can be
22 established for such practices that meet each of the
23 requirements of this section. The Secretary shall
24 only issue offset credits under this title pursuant to
25 promulgated methodologies applicable to the offset

1 practice that avoided or reduced greenhouse gas
2 emissions or sequestered greenhouse gases.

3 (2) SPECIFIED METHODOLOGIES.—The Sec-
4 retary shall establish the following methodologies
5 under this section:

6 (A) ACTIVITY BASELINES.—A standardized
7 methodology for establishing activity baselines
8 for an offset practice of that type. The Sec-
9 retary shall set activity baselines to reflect a
10 conservative estimate of performance or activi-
11 ties for the relevant type of practice (excluding
12 changes in performance or activities due to the
13 availability of offset credits) such that the base-
14 line provides an adequate margin of safety to
15 ensure the environmental integrity of offset
16 credits calculated in reference to such baseline.

17 (B) ADDITIONALITY.—A standardized
18 methodology for determining the additionality
19 of greenhouse gas emissions reduction or avoid-
20 ance, or greenhouse gas sequestration, achieved
21 by an offset practice of that type. Such method-
22 ology shall ensure, at a minimum, that any
23 greenhouse gas emission reduction or avoidance,
24 or any greenhouse gas sequestration, is consid-

1 ered additional only to the extent that it results
2 from activities that—

3 (i) are not required by existing gov-
4 ernment regulations, as determined by the
5 Secretary;

6 (ii) were not commenced prior to Jan-
7 uary 1, 2009, except in the case of—

8 (I) offset project activities that
9 commenced after January 1, 2001,
10 and were registered as of the date of
11 enactment of this title under an offset
12 program with respect to which an af-
13 firmative determination has been
14 made under section 740 of the Clean
15 Air Act; or

16 (II) activities that are readily re-
17 versible, with respect to which the
18 Secretary may set an alternative ear-
19 lier date under this subparagraph that
20 is not earlier than January 1, 2001,
21 where the Secretary determines that
22 setting such an alternative date may
23 produce an environmental benefit by
24 removing an incentive to cease and

1 then reinitiate activities that began
2 prior to January 1, 2009; and

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

5 (C) QUANTIFICATION METHODS.—A stand-
6 ardized methodology for determining the extent
7 to which greenhouse gas emission reductions or
8 avoidance, or greenhouse gas sequestration,
9 achieved by an offset practice of that type ex-
10 ceeded a relevant activity baseline, including
11 methods for monitoring and accounting for un-
12 certainty.

13 (D) LEAKAGE.—A standardized method-
14 ology for accounting for and mitigating poten-
15 tial leakage, if any, from an offset practice of
16 that type, taking uncertainty into account, ex-
17 cluding international indirect land use changes
18 unless a positive determination is made under
19 section 211(o)(13)(C)(iii) of the Clean Air Act.

20 (b) SPECIAL CONSIDERATIONS.—

21 (1) EXISTING OFFSET PRACTICES.—In estab-
22 lishing the methodologies under subsection (a), the
23 Secretary shall give due consideration to methodolo-
24 gies for offset practices existing as of the date of the
25 enactment of this title.

1 (2) CERTAIN FACTORS.—As part of the meth-
2 odologies established under subsection (a), the Sec-
3 retary shall establish a formula that takes into ac-
4 count the components of the practice, the character-
5 istics of the land on which the practice is applied,
6 the crop produced, and such other factors as deter-
7 mined appropriate by the Secretary.

8 (c) ACCOUNTING FOR REVERSALS.—

9 (1) IN GENERAL.—Except as provided in sub-
10 section (d) with respect to issuance of a term offset
11 credit, for each type of practice listed under section
12 503, the Secretary shall establish requirements to
13 account for and address reversals, including—

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

17 (B) provisions to require emission allow-
18 ances or offset credits to be held in amounts to
19 fully compensate for greenhouse gas emissions
20 attributable to reversals, and to assign responsi-
21 bility for holding such emission allowances; and

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

25 (2) MECHANISMS.—

1 (A) IN GENERAL.—The Secretary shall
2 prescribe mechanisms to ensure that any se-
3 questration of greenhouse gases, with respect to
4 which an offset credit is issued under this title,
5 results in a permanent net increase in seques-
6 tration of greenhouse gases, and that full ac-
7 count is taken of any actual or potential rever-
8 sal of such sequestration, with an adequate
9 margin of safety.

10 (B) SPECIFIC MECHANISMS.—The Sec-
11 retary shall make available one or more of the
12 following mechanisms to meet the requirements
13 of this paragraph:

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

16 (ii) Insurance that provides for pur-
17 chase and provision to the Secretary for
18 retirement of a quantity of offset credits or
19 emission allowances equal in number to the
20 tons of carbon dioxide equivalents of green-
21 house gas emissions released due to rever-
22 sal.

23 (iii) Another mechanism if the Sec-
24 retary determines it is necessary to satisfy
25 the requirements of this title, taking into

1 account whether the reversal was inten-
2 tional or unintentional.

3 (3) OFFSETS RESERVE.—

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

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

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

13 (iii) register the holding of the re-
14 served offset credits in an offset registry.

15 (B) PRACTICE REVERSAL.—

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

24 (ii) INTENTIONAL REVERSALS.—If the
25 Secretary determines that a reversal was

1 intentional, the offset practice developer
2 for the relevant offset practice shall place
3 into the offsets reserve a quantity of offset
4 credits, or combination of offset credits
5 and emission allowances, equal in number
6 to the number of reserve offset credits that
7 were retired pursuant to clause (i).

8 (iii) UNINTENTIONAL REVERSALS.—If
9 the Secretary determines that a reversal
10 was unintentional, the offset project devel-
11 oper for the relevant offset project shall
12 place into the offsets reserve a quantity of
13 offset credits, or combination of offset
14 credits and emission allowances, equal in
15 number to half the number of offset credits
16 that were reserved for that offset project,
17 or half the number of reserve offset credits
18 that were canceled due to the reversal pur-
19 suant to clause (i), whichever is less, ex-
20 cept that the Secretary may lower this
21 amount based on undue hardship in the
22 event of a catastrophic occurrence.

23 (C) USE OF RESERVED OFFSET CRED-
24 ITS.—Offset credits placed into the offsets re-

1 serve under this paragraph may not be used to
2 comply with section 722 of the Clean Air Act.

3 (d) TERM OFFSET CREDITS.—

4 (1) APPLICABILITY.—With respect to a practice
5 listed under section 503 that sequesters greenhouse
6 gases and has a crediting period of no more than
7 five years, the Secretary may address reversals pur-
8 suant to this subsection in lieu of permanently ac-
9 counting for reversals pursuant to subsection (c).

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

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

20 (e) CREDITING PERIODS.—

21 (1) IN GENERAL.—For each offset practice type
22 within an offset project, the Secretary shall specify
23 a crediting period, and establish provisions for re-
24 enrollment for a subsequent crediting period, in ac-
25 cordance with this subsection.

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

3 (A) 5 years for agricultural sequestration
4 practices;

5 (B) 20 years for forestry sequestration
6 practices; and

7 (C) 10 years for other practice types that
8 reduce or avoid greenhouse gas emissions or se-
9 quester greenhouse gases.

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

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

15 (B) remain eligible to generate offset cred-
16 its, only during the crediting period, subject to
17 the methodologies and practice type eligibility
18 list that applied as of the date of the project
19 approval.

20 (4) REENROLLMENT FOR SUBSEQUENT CRED-
21 ITING PERIOD.—

22 (A) REENROLLMENT AUTHORIZED; TIME
23 FOR REENROLLMENT.—An offset project devel-
24 oper may reenroll for a subsequent crediting pe-
25 riod, to commence after termination of the cur-

1 rent crediting period, subject to the methodolo-
2 gies and practice type eligibility list in effect at
3 the time of reenrollment. Reenrollment may not
4 occur more than 18 months before the end of
5 the crediting period then in effect.

6 (B) LIMITATION.—The Secretary may
7 limit the number of subsequent crediting peri-
8 ods available for a particular practice type.

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

14 **SEC. 505. PROJECT PLAN SUBMISSION AND APPROVAL.**

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

18 (b) REQUIREMENTS.—As part of the regulations pro-
19 mulgated under this title, the Secretary shall include pro-
20 visions for, and shall specify, the required components of
21 an offset project plan, including—

22 (1) designation of an offset project developer;

23 (2) a list and schedule of the practices to be im-
24 plemented;

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

3 (A) to determine whether the offset prac-
4 tice, within the offset project, is eligible for
5 issuance of offset credits under regulations pro-
6 mulgated under this title; and

7 (B) to achieve the purposes of this title.

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

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

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

17 (d) APPEAL.—The Secretary shall establish proce-
18 dures for appeal and review of determinations made under
19 this section.

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

1 **SEC. 506. VERIFICATION OF OFFSET PRACTICES.**

2 (a) IN GENERAL.—As part of the regulations promul-
3 gated under this title, the Secretary shall establish re-
4 quirements to verify—

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

7 (2) the quantity of greenhouse gas emission re-
8 ductions or avoidance, or sequestration of green-
9 house gases, resulting from an offset practice and
10 project.

11 (b) VERIFICATION REPORTS.—

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

16 (2) REQUIREMENTS.—The Secretary shall
17 specify the components of a verification report re-
18 quired under paragraph (1), including—

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

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

23 (C) the quantity of greenhouse gases re-
24 duced, avoided, or sequestered;

25 (D) a certification establishing that the
26 conflict of interest requirements in the regula-

1 tions promulgated under this title have been
2 complied with;

3 (E) any other information that the Sec-
4 retary requires to determine the quantity of
5 greenhouse gas emission reduction or avoidance,
6 or sequestration of greenhouse gases, resulting
7 from the offset practice and project; and

8 (F) any other information that the Sec-
9 retary considers to be necessary to achieve the
10 purposes of this title.

11 (c) VERIFIER ACCREDITATION.—

12 (1) IN GENERAL.—As part of the regulations
13 promulgated under this title, the Secretary shall es-
14 tablish a process and requirements for periodic ac-
15 creditation of third-party verifiers for offset credits
16 under this program to ensure that those verifiers are
17 professionally qualified and have no conflicts of in-
18 terest.

19 (2) PUBLIC ACCESSIBILITY.—Each verifier
20 meeting the requirements for accreditation in ac-
21 cordance with this subsection shall be listed in a
22 publicly accessible database, which shall be main-
23 tained and updated by the Secretary.

1 **SEC. 507. CERTIFICATION OF OFFSET CREDITS.**

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

5 (1) make a determination of the quantity of
6 greenhouse gas emissions that have been reduced or
7 avoided, or greenhouse gases that have been seques-
8 tered, by the offset practice in an approved and
9 verified offset project plan; and

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

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

19 (c) APPEAL.—The Secretary shall establish proce-
20 dures for appeal and review of determinations made under
21 subsection (a).

22 (d) TIMING.—Offset credits meeting the criteria de-
23 scribed in subsection (b) shall be issued by the Secretary
24 not later than 14 days after the date on which the Sec-
25 retary makes a determination under subsection (a).

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

5 **SEC. 508. OWNERSHIP AND TRANSFER OF OFFSET CREDITS.**

6 (a) OWNERSHIP.—Initial ownership of an offset cred-
7 it shall lie with the offset project developer, unless other-
8 wise specified in a legally binding contract or agreement.

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

12 **SEC. 509. PROGRAM REVIEW AND REVISION.**

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

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

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

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

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

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

4 **SEC. 510. ENVIRONMENTAL CONSIDERATIONS.**

5 If the Secretary lists forestry practices as eligible off-
6 set practice types under section 503, the Secretary, in con-
7 sultation with appropriate Federal agencies, shall promul-
8 gate regulations for the selection and use of species in for-
9 estry and other relevant land management-related offset
10 practices—

11 (1) to ensure that native species are given pri-
12 mary consideration in such practices;

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

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

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

20 (5) in accordance with widely accepted, environ-
21 mentally sustainable forestry practices.

22 **SEC. 511. AUDITS.**

23 (a) **AUDITS REQUIRED.**—The Secretary shall con-
24 duct, on an annual basis, random audits of offset projects,
25 offset credits, and the practices of third-party verifiers. At

1 a minimum, the Secretary shall conduct audits each year
2 for a representative sample of practice types and geo-
3 graphical areas.

4 (b) ADDITIONAL AUTHORITY.—Nothing in this sec-
5 tion prevents the Secretary from conducting any audit the
6 Secretary considers to be necessary.

7 **Subtitle B—USDA Greenhouse Gas**
8 **Emission Reduction and Seques-**
9 **tration Advisory Committee**

10 **SEC. 531. ESTABLISHMENT OF USDA GREENHOUSE GAS**
11 **EMISSION REDUCTION AND SEQUESTRATION**
12 **ADVISORY COMMITTEE.**

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

18 “(f) USDA GREENHOUSE GAS EMISSION REDUC-
19 TION AND SEQUESTRATION ADVISORY COMMITTEE.—

20 “(1) ESTABLISHMENT.—Not later than 30 days
21 after the date of the enactment of the American
22 Clean Energy and Security Act of 2009, the Sec-
23 retary shall establish an independent advisory com-
24 mittee, to be known as the ‘USDA Greenhouse Gas
25 Emission Reduction and Sequestration Advisory

1 Committee', to provide scientific and technical advice
2 on establishing, implementing, and ensuring the
3 overall environmental integrity of an offset program
4 for domestic agricultural and forestry practices that
5 reduce or avoid greenhouse gas emissions, or seques-
6 ter greenhouse gases.

7 “(2) MEMBERSHIP.—The Advisory Committee
8 shall be comprised of nine members, including a
9 chairperson and vice-chairperson, appointed by the
10 Secretary. Each member shall be qualified by edu-
11 cation, training, and experience to evaluate scientific
12 and technical information for domestic agricultural
13 and forestry offset practices that reduce or avoid
14 greenhouse gas emissions or sequester greenhouse
15 gases.

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

22 “(4) DUTIES.—The Advisory Committee
23 shall—

24 “(A) provide options and recommenda-
25 tions, not later than 180 days after the date of

1 the enactment of the American Clean Energy
2 and Security Act of 2009, to the Secretary re-
3 garding the establishment of methodologies as
4 described in section 504 of such Act, taking
5 into account relevant scientific information, in-
6 cluding—

7 “(i) the availability of representative
8 data for use in developing an activity base-
9 line for a land area, forest, soil, industry
10 sector, and facility type;

11 “(ii) the potential for accurate
12 quantification of greenhouse gas reduc-
13 tion, or sequestration for an offset practice
14 type;

15 “(iii) the potential level of scientific
16 and measurement uncertainty associated
17 with an offset practice type; and

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

23 “(B) make available to the Secretary op-
24 tions and recommendations for the program as
25 a whole and on offset methodologies for each

1 practice type that should be considered under
2 regulations promulgated pursuant to section
3 504 of the American Clean Energy and Secu-
4 rity Act of 2009, including methodologies to ad-
5 dress the issues of additionality, activity base-
6 lines, measurement, leakage, including the ap-
7 plication of sector specific leakage factors, un-
8 certainty, permanence, and environmental in-
9 tegrity;

10 “(C) make available to the Secretary ad-
11 vice and comment on areas where further
12 knowledge is required to appraise the adequacy
13 of existing, revised, or proposed methodologies
14 and describe the research efforts necessary to
15 provide the required information;

16 “(D) make available to the Secretary ad-
17 vice and comments on other ways to improve or
18 safeguard the environmental integrity of the
19 offset practice types listed under section 503 of
20 the American Clean Energy and Security Act of
21 2009; and

22 “(E) provide options and recommendations
23 regarding new practice types.

24 “(5) SCIENTIFIC REVIEW OF OFFSET PRO-
25 GRAM.—Not later than January 1, 2017, and at 5-

1 year intervals thereafter, the Advisory Committee
2 shall—

3 “(A) submit to the Secretary and make
4 available to the public an analysis of relevant
5 scientific and technical information regarding
6 agricultural and forestry offset practices that
7 reduce or avoid greenhouse gas emissions or se-
8 quester greenhouse gases;

9 “(B) review approved and potential prac-
10 tice types, methodologies, scientific studies, off-
11 set project monitoring, offset project
12 verification reports, reporting of reversals, au-
13 dits related to the offset program, and other
14 relevant information needed to evaluate the off-
15 set program;

16 “(C) evaluate the net emission effects of
17 implemented offset projects; and

18 “(D) recommend changes to offset meth-
19 odologies, procedures, practice types, or the
20 overall program to ensure that—

21 “(i) the offset practices result in re-
22 duced or avoided greenhouse gas emissions
23 or sequestration of greenhouse gases;

24 “(ii) the offset credits issued by the
25 Secretary do not compromise the integrity

1 of the annual emissions reductions estab-
2 lished under section 703 of the Clean Air
3 Act; and

4 “(iii) the offset program avoids or
5 minimizes adverse affects to human health
6 and the environment.

7 “(6) COORDINATION.—To avoid duplication, the
8 Advisory Committee shall coordinate its activities
9 with those of any other Federal advisory committees
10 working in related areas, and shall to the maximum
11 extent possible use research data and services of the
12 research, education, extension agencies of the De-
13 partment of Agriculture.

14 “(7) CONSULTATION.—On a periodic basis, the
15 Advisory Committee shall consult with, and be in-
16 formed by the views of, the Offsets Integrity Advi-
17 sory Board established under section 731 of the
18 Clean Air Act.

19 “(8) MEETING.—The Advisory Committee shall
20 meet on at least a quarterly basis each year.

21 “(9) ADMINISTRATIVE SUPPORT AND FUND-
22 ING.—The Secretary may provide such administra-
23 tive and funding support as necessary to enable the
24 Advisory Committee to carry out its duties under
25 this section.

1 “(10) REPORT.—For each fiscal year, the Sec-
2 retary shall submit to Congress a report on—

3 “(A) the status and progress on the offset
4 practices;

5 “(B) the general status of cooperation and
6 research and development; and

7 “(C) the plans for addressing future issues
8 and concerns.”.

9 **Subtitle C—Miscellaneous**

10 **SEC. 551. INTERNATIONAL INDIRECT LAND USE CHANGES.**

11 Section 211(o) of the Clean Air Act (42 U.S.C.
12 7545(o)) is amended by adding at the end the following

13 “(13) INTERNATIONAL INDIRECT LAND USE
14 CHANGES.—

15 “(A) EXCLUSION FROM REGULATORY RE-
16 QUIREMENTS REGARDING LIFECYCLE GREEN-
17 HOUSE GAS EMISSIONS.—Notwithstanding the
18 definition of ‘lifecycle greenhouse gas emissions’
19 in paragraph (1)(H), for purposes of deter-
20 mining whether the fuel meets a definition in
21 paragraph (1) or complies with paragraph
22 (2)(A)(i), the Administrator shall exclude emis-
23 sions from indirect land use changes outside the
24 renewable fuel’s feedstock’s country of origin.

1 “(B) NATIONAL ACADEMIES OF SCIENCE
2 REPORT.—(i) Not later than 6 months after the
3 date of enactment of this paragraph, the Ad-
4 ministrators and the Secretary of Agriculture
5 shall jointly arrange for the National Academies
6 of Science to review and report on specified
7 issues related to indirect greenhouse gas emis-
8 sions related to transportation fuels.

9 “(ii) The report shall evaluate and report
10 on whether there are economic and environ-
11 mental models and methodologies that individ-
12 ually, or as a system, can project with reli-
13 ability, predictability, and confidence—

14 “(I) for purposes of determining
15 whether the fuel meets a definition in
16 paragraph (1) or complies with paragraph
17 (2)(A)(i), indirect land use changes that
18 are related to the production of renewable
19 fuels and that may occur outside the coun-
20 try in which the feedstocks are grown, and
21 the impacts of these changes on green-
22 house gas emissions; and

23 “(II) indirect effects, both domestic
24 and international, related to the production
25 and importation of non-renewable trans-

1 portation fuels that have significant green-
2 house gas emissions, and the impact of
3 these effects on greenhouse gas emissions.

4 “(iii) The report shall include a review and
5 assessment of all pertinent scientific studies,
6 methodologies and data, shall evaluate potential
7 methodologies for calculating such emissions
8 (including an evaluation of methods for
9 annualizing emissions associated with forest
10 degradation or land conversion), and shall make
11 appropriate recommendations. The rec-
12 ommendations shall address indirect effects,
13 both domestic and international, related to the
14 production and importation of non-renewable
15 transportation fuels that have significant green-
16 house gas emissions. The report shall use ap-
17 propriate validation procedures, including sensi-
18 tivity analyses, of how results change as as-
19 sumptions change. The evaluation shall include
20 for a model, a methodology, or a system of
21 models—

22 “(I) an assessment of how reliably the
23 models, methodologies, or systems track
24 actual outcomes over historical periods
25 using available historical data; and

1 “(II) an assessment of how reliably
2 the models, methodologies or systems will
3 project future outcomes.

4 “(iv) The report shall be publicly available
5 and shall include sufficient information and
6 data such that economists and other scientists
7 with relevant expertise that are not on the Na-
8 tional Academies of Science panel can fully
9 evaluate the conclusions of the report.

10 “(v) The report shall be completed within
11 three years of the date of enactment of this
12 paragraph.

13 “(C) DETERMINATION.—(i) The Adminis-
14 trator and the Secretary of Agriculture shall,
15 after notice and an opportunity for public com-
16 ment, determine whether, for purposes of deter-
17 mining compliance with the percent reductions
18 in lifecycle greenhouse gas emissions specified
19 in paragraph (1) for various renewable fuels,
20 scientifically valid models and methodologies
21 exist to project indirect land use changes that
22 are related to the production of renewable fuels
23 and that occur outside the country in which the
24 feedstocks are grown, and the impact of these
25 changes on greenhouse gas emissions.

1 “(ii) The determination shall take into ac-
2 count the findings and recommendations of the
3 report required under subparagraph (B), as
4 well as other available scientific, economic, and
5 other relevant information. The Administrator
6 and the Secretary may also consider methods
7 used by the Environmental Protection Agency,
8 the Department of Agriculture, and other Fed-
9 eral agencies to assess or guide their related
10 policies.

11 “(iii) The Administrator and the Secretary
12 of Agriculture shall publish a proposed deter-
13 mination not later than 4 years after date of
14 enactment of this paragraph, and shall publish
15 a final determination not later than 5 years
16 after date of enactment of this paragraph. An
17 explanation and justification of the determina-
18 tion shall be included in the proposed and final
19 actions, together with a response to comments
20 received.

21 “(D) RESPONSE TO DETERMINATION.—(i)
22 In the event of a positive determination under
23 subparagraph (C), the Administrator and the
24 Secretary of Agriculture shall, after notice and
25 an opportunity for public comment, by the same

1 date jointly establish a methodology (or meth-
2 odologies) to calculate greenhouse gas emissions
3 from indirect land use changes that are attrib-
4 utable to the production of renewable fuels and
5 that occur outside the country in which feed-
6 stocks are grown for purposes of calculating a
7 renewable fuel's lifecycle greenhouse gas emis-
8 sions to determine whether the fuel meets a def-
9 inition in paragraph (1) or complies with para-
10 graph (2)(A)(i). The exclusion in subparagraph
11 (A) shall end, and the Administrator shall issue
12 a regulation by the same date that shall include
13 emissions from indirect land use changes out-
14 side the renewable fuel's feedstock's country of
15 origin for purposes of calculating a renewable
16 fuel's lifecycle greenhouse gas emissions to de-
17 termine whether the fuel meets a definition in
18 paragraph (1) or complies with paragraph
19 (2)(A)(i) for renewable fuels sold in the cal-
20 endar year following the year of the positive de-
21 termination. The effective date of the regulation
22 shall be six years after the date of enactment
23 of this paragraph.

1 “(ii) A negative determination under sub-
2 paragraph (C) shall include a statement of the
3 basis for the determination.

4 “(E) ACCOUNTABILITY.—The joint duties
5 and actions of the Administrator and the Sec-
6 retary of Agriculture shall be subject to sections
7 304 and 307 of this Act as if they were the du-
8 ties and actions of the Administrator alone.”.

9 **SEC. 552. BIOMASS-BASED DIESEL.**

10 Section 211(o)(2)(A) of the Clean Air Act (42 U.S.C.
11 7545(o)(2)(A)) is amended by adding at the end the fol-
12 lowing new clause:

13 “(v) GRANDFATHERING BIOMASS-
14 BASED DIESEL.—The Administrator shall
15 promulgate regulations exempting from the
16 lifecycle greenhouse gas requirements in
17 subparagraphs (B) and (D) of paragraph
18 (1) up to the greater of 1 billion gallons or
19 the volume mandate adopted pursuant to
20 subparagraph (B)(ii) of biomass-based die-
21 sel annually from facilities that commenced
22 construction before the date of enactment
23 of the Energy Independence and Security
24 Act of 2007.”.

1 **SEC. 553. MODIFICATION OF DEFINITION OF RENEWABLE**
2 **BIOMASS.**

3 (a) NATIONAL ACADEMY OF SCIENCES REPORT.—
4 Not later than 1 year after the date of enactment of this
5 Act, the Administrator of the Environmental Protection
6 Agency, the Secretary of Agriculture, and the Federal En-
7 ergy Regulatory Commission shall jointly arrange for the
8 National Academy of Sciences to evaluate how sources of
9 renewable biomass contribute to the goals of increasing
10 America's energy independence, protecting the environ-
11 ment, and reducing global warming pollution.

12 (b) MODIFICATION.—

13 (1) EPA MODIFICATION AUTHORITY.—After re-
14 viewing the report required by subsection (a), the
15 Administrator of the Environmental Protection
16 Agency, in concurrence with the Secretary of Agri-
17 culture, may, by regulation and after public notice
18 and comment, modify the non-Federal lands portion
19 of the definition of “renewable biomass” in sections
20 211(o)(1)(I) and 700 of the Clean Air Act in order
21 to advance the goals of increasing America's energy
22 independence, protecting the environment, and re-
23 ducing global warming pollution.

24 (2) FERC MODIFICATION AUTHORITY.—After
25 reviewing the report required by subsection (a), the
26 Federal Energy Regulatory Commission, in concur-

1 rence with the Secretary of Agriculture, may, by reg-
2 ulation and after public notice and comment, modify
3 the non-Federal lands portion of the definition of
4 “renewable biomass” in section 610 of the Public
5 Utility Regulatory Policies Act of 1978 in order to
6 advance the goals of increasing America’s energy
7 independence, protecting the environment, and re-
8 ducing global warming pollution.

9 (c) FEDERAL LANDS.—

10 (1) SCIENTIFIC REVIEW.—The Secretary of the
11 Interior, the Secretary of Agriculture, and the Ad-
12 ministrator of the Environmental Protection Agency
13 shall conduct a joint scientific review, within one
14 year after the date of enactment of this Act, to
15 evaluate how sources of biomass from Federal lands
16 could contribute to the goals of increasing America’s
17 energy independence, protecting the environment,
18 and reducing global warming pollution.

19 (2) MODIFICATION AUTHORITY.—Based on the
20 scientific review, the agencies may, by rule, modify
21 the definition of “renewable biomass” from Federal
22 lands in sections 211(o)(1)(I) and 700 of the Clean
23 Air Act and section 610 of the Public Utility Regu-
24 latory Policies Act of 1978 as appropriate to ad-
25 vance the goals of increasing America’s energy inde-

- 1 pence, protecting the environment, and reducing
- 2 global warming pollution.

