



June 26, 2009

MANAGER'S AMENDMENT TO H.R. 2454, THE AMERICAN CLEAN ENERGY AND SECURITY ACT OF 2009

Section 101. Combined Efficiency and Renewable Electricity Standard. The manager's amendment modifies the Combined Efficiency and Renewable Electricity Standard to accommodate states with preexisting renewable electricity standards that rely on a central procurement model for deploying renewable electricity. The amendment expands the definition of "qualified hydropower" by changing the eligibility date for incremental hydropower from January 1, 1992, to January 1, 1988.

The amendment further broadens the definition of "renewable biomass" by adopting the Farm Bill definition for non-federal lands, including residues and byproducts from wood, pulp, and paper products facilities, and expanding the types of biomass eligible from federal lands, including dead, severely damaged, and badly infested trees from late-successional stands.

Section 103. Federal Renewable Energy Purchases. The manager's amendment adds a new section establishing a Renewable Electricity Standard (RES) for federal agencies. It also would provide federal agencies with the authority to enter into renewable energy power purchase agreements for up to 20 years.

Section 115. Commercial Deployment of Carbon Capture and Sequestration Technologies. The manager's amendment make a clarifying technical edit regarding the eligibility of certain projects.

Section 123. Plug-In Electric Drive Vehicle Manufacturing. The manager's amendment modified language to allow the construction of battery manufacturing facilities, but not the purchase of batteries for vehicles.

Section 126. Amendment to the Renewable Fuels Standard. The manager's amendment changes the definition of "renewable biomass" to conform to the amended definition in section 101.

Section 129. Diesel Emissions Reduction. The manager's amendment extends the authorization for the state grants under the Diesel Emissions Reduction Act from 2011 to 2016.

Section 130. Fleet Vehicles. The manager's amendment allows DOE to provide Alternate Fueled Vehicle credits to state fleets for the purchase of retrofitted or converted AFVs (including medium and heavy duty vehicles), and allows these vehicles to be included for purposes of meeting federal fleet requirements.

Section 130A. Report on Natural Gas Vehicle Emissions Reductions. The manger's amendment requires the EPA Administrator, with other agencies, to issue a report to Congress on the contribution of natural gas vehicles to reducing greenhouse gas emissions and additional measures that could maximize this contribution.

Section 132. Support of State Renewable Energy and Energy Efficiency Programs. The manager's amendment makes technical changes to permit states to convey allowances in SEED accounts directly to renewable energy generators. It also increases the required funding to retrofits of existing buildings from 5% to 5.5%.

Section 151. Transmission Planning and Siting. The manager’s amendment makes a number of changes to the transmission planning section. The amendment limits the existing federal backstop siting authority under section 216 of the Federal Power Act to the Eastern interconnection and to interstate lines and intrastate segments that are integral to a proposed interstate line. The amendment establishes federal backstop siting authority for the Western interconnection for multistate lines that emerge from the regional planning process and were identified in such plans as needed in significant measure to meet demand for renewable energy.

Section 171. Energy Innovation Hubs. The manager’s amendment makes a minor change to the definition of “cluster” to clarify that a cluster means a “network of entities” with certain characteristics.

Section 175. High Efficiency Gas Turbine Research, Development and Demonstration. The manager’s amendment provides for a research program to improve the efficiency of gas turbines.

Section 185. Energy Technology Deployment Goals. The manager’s amendment expands the list of clean energy deployment goals for the Clean Energy Deployment Administration to include the sufficient availability of financial support for small businesses that develop and deploy clean energy technologies through partnerships with private entities with relevant credit expertise.

Section 191. Nuclear and Advanced Technologies, Conforming Amendments. The manager’s amendment makes a technical correction to section 191.

Section 196. Clean Technology Business Competition Grant Program. The manager’s amendment clarifies that the grant program includes minority-owned and woman-owned entrepreneurs.

Section 199. Development Corporation for Renewable Power Borrowing Authority. The manager’s amendment adds a new section to require the Secretaries of Energy and Commerce to make recommendations to Congress regarding the need for new federal lending authority for renewable energy in areas of the United States not served by a federal power marketing authority.

Section 199A. Study. The manager’s amendment adds a new section requiring a DOE study on the use of thorium-fueled nuclear reactors for national energy needs.

Section 202. Building Retrofit Program. The manager’s amendment would amend the REEP program to provide that federal funds provided to disaster victims may qualify as the building owners’ contribution toward the matching requirements of the REEP program.

It also provides that states must offer preferential access to a minimum of 10% of the dedicated REEP program funding they obtain to public and assisted housing, provided the owners of such housing do not raise rents and extend the period of committed affordability.

Section 204. Building Energy Performance Labeling Program. The manager’s amendment would limit the prototype building labeling program to new construction only.

Section 207. Community Building Code Administration Grants. The manager’s amendment adds a new section to create a grant program in the Department of Housing and Urban Development for the purpose of supporting local building code agency enforcement of fire, safety, electrical, plumbing, access, and other codes, including energy efficiency codes.

Section 208. Solar Energy Systems Building Permit Requirements for Receipt of Community Development Block Grant Funds. The manager's amendment would add a new section to limit the cost of a permit of license for construction or installation of a solar energy system. It would provide that noncompliance with the permit cost requirements disqualifies the entity from Community Development Block Grants.

Section 209. Prohibition of Restrictions on Residential Installation of Solar Energy System. The manager's amendment would direct the Department of Housing and Urban Development to issue rules to prohibit private covenants that restrict or prohibit the installation of solar energy systems.

Section 211. Lighting Efficiency Standards. The manager's amendment makes changes to the outdoor lighting efficiency standards.

Section 217. Early Adopter Water Efficient Product Incentive Programs. The manager's amendment would allow additional entities to participate in the water efficient product incentive program and would allow vouchers, direct installs, and other forms of financial assistance, in addition to rebates.

Section 219. Energy Star Standards. The manager's amendment specifies that the Environmental Protection Agency and Department of Energy specifically consider cost-effectiveness and payback periods in evaluating means to provide consumers with greater information about Energy Star products.

Section 246. Clean Energy Manufacturing Revolving Loan Fund Program. The manager's amendment adds a new section to require the Secretary of Commerce to establish a program for the award of grants to states to establish revolving loan funds for small and medium-sized manufacturers to improve energy efficiency and produce clean energy technology.

Section 247. Clean Energy and Efficiency Manufacturing Partnerships. The manager's amendment adds a new section to create partnerships to help manufacturers find new markets, improve competitiveness, reduce greenhouse gas production, and adopt innovating manufacturing technologies.

Section 248. Technical Amendments. The manager's amendment makes technical corrections to the National Institute of Standards and Technology Act to conform with section 247.

Section 265. Consumer Behavior Research. The manager's amendment authorizes a Department of Energy research program to study the factors affecting consumer adoption of energy conservation practices and efficiency improvements.

Section 275. Industrial Energy Efficiency Education and Training Initiative. The manager's amendment adds a new section to establish a program at the Department of Energy to educate commercial and industrial consumers about the merits of mechanical insulation as an energy efficiency technology.

Section 276. Sense of Congress. The manager's amendment adds a new section to express the sense of Congress that the United States should work with the International Civil Aviation Organization to develop a comprehensive international framework for regulating greenhouse gas emissions from civil aircraft and to work with other nations to avoid duplicative requirements for the aviation industry.

Section 281-308. Green Resources for Energy Efficient Neighborhoods. The manager's amendment would add a new subtitle for promoting green and energy efficiency housing programs and initiatives.

After the Secretary of Housing and Urban Development determines standards for energy efficiency and other green attributes for HUD-related buildings, the Secretary is instructed to develop energy efficient building demonstration projects for multi-family assisted housing projects. The provision would enhance Fannie Mae and Freddie Mac energy-efficient mortgage facilities, authorize energy-efficient mortgages for underserved areas, Native American and Native Hawaiian areas, and create an education and outreach program. Further provisions provide for energy efficiency support to manufactured homes, an energy efficiency block grant program, and sustainable development and transportation strategies.

Section 311. Reducing Global Warming Pollution.

Section 721. Emission Allowances. The manager's amendment makes technical and conforming changes to this section.

Section 722. Prohibition on Excess Emissions. The manager's amendment includes a provision to allow covered entities to meet compliance obligations with term offset credits, subject to specified requirements. Term offset credits are time-limited offset credits that could be issued under the domestic agricultural offsets program. At the end of a term offset credit's crediting term, the term offset credit would expire and the user of such term offset credit would be liable for the resulting compliance obligation. The manager's amendment makes conforming changes elsewhere in Title III to accommodate the use of term offset credits.

Section 723. Penalty for Noncompliance. The manager's amendment makes conforming changes to this section regarding term offset credits.

Section 725. Banking and Borrowing. The manager's amendment makes conforming changes to this section regarding term offset credits.

Section 726. Strategic Reserve. The manager's amendment makes a technical change to this section.

Section 312. Definitions.

Section 700. Definitions. The manager's amendment changes the definition of "renewable biomass" to conform to the amended definition in section 101. It also makes conforming changes regarding term offset credits.

Section 321. Disposition of allowances for global warming pollution reduction program.

Section 781. Allocation of Allowances for Supplemental Reductions. The manager's amendment makes a technical change to this section.

Section 782. Allocation of Emission Allowances. The manager's amendment provides that 0.75% of allowances for vintage years 2012 and 2013 shall be deposited in the Energy Efficiency and Renewable Energy Worker Training Fund. The manager's amendment provides that 0.75% of allowances from vintage year 2012 be distributed to recognize emission reductions that occurred between January 1, 2001, and January 1, 2009, and that were registered under and approved program pursuant to section 740. Owners of qualifying offset credits will receive allowances in an amount equivalent to the monetary value of the offset credits, defined as the average monetary value of such credits from 2006-2009. The manager's amendment provides 0.14% of allowances

from vintage years 2012 through 2016 for supplemental agriculture and renewable energy incentives programs. It also allocates a small number of allowances directly for the purposes of the REEP program. The manager's amendment also makes technical changes to this section.

Section 783. Electricity consumers. The manager's amendment makes technical changes to ensure that new plants that come online in the last quarter of 2012 are accounted for in the electricity local distribution company and merchant coal unit distributions. The amendment establishes a new program, for which 0.35 of the allowances in 2012 are set aside, to avoid disincentives to the continued use of existing energy-efficient cogeneration facilities at industrial parks.

Section 788. Supplemental Agriculture and Renewable Energy Incentives Programs. The manager's amendment creates a new section 788 to provide allowances for agricultural activities that reduce greenhouse gases or sequester carbon and to provide allowances for state and local government deployment of renewable energy infrastructure.

Section 790. Exchange for State-Issued Allowances. The manager's amendment clarifies that allowances under this section must be retired.

Section 794. Oversight of Allocations. The manager's amendment makes a technical correction to this section.

Section 795. Exchange for Early Action Offset Credits. The manager's amendment provides allowances for the exchange of qualifying early action offset credits. Owners of qualifying offset credits will receive allowances in an amount equivalent to the monetary value of the offset credits, defined as the average monetary value of such credits from 2006-2009.

Section 340. Reducing Acid Rain and Mercury Pollution. The manager's amendment requires the EPA Administrator to assess and report to Congress on the effects on how different carbon reduction strategies and technologies will affect emissions of mercury, sulfur dioxide, and nitrogen oxides.

Sections 341, 342, 358. Carbon Market Assurance and Additional Market Assurance. The manager's amendment provides that the Commodity Futures Trading Commission shall regulate regulated allowance derivatives and prohibits over-the-counter trading of such derivatives.

Section 358. Regulation of Carbon Derivatives Markets. The manager's amendment provides that, upon passage of legislation that includes derivatives regulatory reform, sections 351, 352, 354, 355, 356, and 356 shall be repealed and regulations promulgated under those sections shall be null and void.

Section 360. Presidential Review of Regulations. The manager's amendment requires the President to review the offset and derivatives regulations promulgated under the Act and to determine whether those regulations adequately protect the United States financial system from systemic risk.

Section 401. Ensuring Real Reductions in Industrial Emissions. The manager's amendment makes technical corrections to the emission allowance rebate program. The manager's amendment also provides that if the United States does not join a multilateral agreement that meets the negotiating objectives laid out in this section then the border adjustment for energy-intensive trade-exposed sectors will be available to the President in 2020. The President must receive a joint resolution of Congress in order to waive use

of the border adjustment for these sectors. In addition, the President may use the border adjustment for sectors that are not energy-intensive and trade-exposed, at the President's discretion.

Section 422. Increased Funding for Energy Worker Training Program. The manager's amendment establishes a fund to distribute revenue from the auctioning of allowances to provide for energy efficiency and renewable energy worker training.

Section 423. Development of Information and Resources Clearinghouse for Vocational Education and Job Training in Renewable Energy Sectors. The manager's amendment adds a new section to establish a clean energy career training clearinghouse to aid institutions with federal resources, expertise, information, and points of contact in establishing and maintaining quality training programs.

Section 424. Monitoring Program Effectiveness. The manager's amendment provides that the Secretary of Labor shall monitor the potential growth of displaced workers to ensure that necessary funding is available.

Section 424A. Green Construction Careers Demonstration Project. The manager's amendment adds a new section to establish a demonstration project to promote middle class careers and quality employment practices in the green construction sector among targeted workers.

Section 427. Climate Change Worker Adjustment Assistance, General Provisions. The manager's amendment strikes the penalties for fraud section.

Section 431. Energy Refund Program. The manager's amendment makes a technical change to this section.

Section 432. Modification of Earned Income Credit Amount for Individuals with No Qualifying Children. The manager's amendment reduces the income threshold for phase out of benefits under the childless Earned Income Tax Credit program. It also makes technical corrections.

Section 441-446. Exporting Clean Technology. The manager's amendment makes technical corrections to sections 442, 443, and 446. The manager's amendment also clarifies that activities funded under this section are not eligible to receive offset credits. It also requires an annual report to Congress on the assistance provided under this subtitle.

Section 467. Climate Change Health Protection and Promotion Fund. The manager's amendment makes technical corrections.

Section 480. Natural Resources Climate Change Adaptation Fund. The manager's amendment makes technical corrections. The manager's amendment allows funding to be used for natural resource adaptation activities on certain state and private forest lands and relating to hurricanes.

Section 496. Deficit Neutrality. The manager's amendment ensures that the funds established in sections 422, 467, and 480 are treated as separate accounts in the Treasury.

Title V. Agriculture and Forestry Related Offsets. The manager's amendment adds a new title to create an offset credit program for agricultural and forestry related offsets.

Section 501. Definitions. Provides relevant definitions for this title.

Section 502. Establishment of Offset Credit Program From Domestic Agricultural and Forestry Sources. Directs the Secretary of Agriculture to establish a program governing the generation of offset credits from domestic agricultural and forestry sources, and lists the duties of the Secretary.

Section 503. List of Eligible Domestic Agricultural and Forestry Offset Practice Types. Requires the Secretary to prepare and publish a list of eligible offset practice types and specifies procedures for revising the list.

Section 504. Requirements for Domestic Agricultural and Forestry Practices. Describes requirements for domestic agricultural and forestry practices, including the requirement for methodologies for practices listed under section 503. These include establishment of standardized methodologies for activity baselines, additionality, quantification methods, and leakage. It also directs the Secretary to establish requirements to account for and address reversals, and allows the Secretary to address reversals in the context of certain practices through the use of term offset credits. The section also includes provisions related to crediting periods.

Section 505. Project Plan Submission and Approval. Establishes procedures for project plan submission and approval.

Section 506. Verification of Offset Practices. Establishes procedures for offset project verification and for offset verifier accreditation.

Section 507. Certification of Offset Credits. Details the process for offset quantification and offset credit issuance by the Secretary.

Section 508. Ownership and Transfer of Offset Credits. Covers offset credit ownership and transfer.

Section 509. Program Review and Revision. Directs the Secretary to periodically review, and based on new or updated information, update and revise various portions of the program.

Section 510. Environmental Considerations. Provides specific environmental considerations to be taken into account for forestry practices.

Section 511. Audits. Directs the Secretary to conduct audits.

Section 531. Establishment of USDA Greenhouse Gas Emission Reduction and Sequestration Advisory Committee. Establishes an independent USDA Greenhouse Gas Emission Reduction and Sequestration Advisory Committee and specifies its structure and responsibilities.

Section 551. International Indirect Land Use Changes. The manager's amendment would exclude indirect land use changes that occur outside the country where the biofuel feedstock is produced from consideration in the lifecycle greenhouse gas emissions analysis for renewable fuels. The National Academy of Sciences will study models and methodologies for conducting such an analysis of indirect international land use changes.

Requires that, within five years of enactment, EPA and USDA determine whether valid scientific models exist to project the emissions impacts of international indirect land use changes. If such methodologies exist, EPA and USDA would jointly establish such methodologies by rule and EPA would include an analysis of indirect land use changes in the lifecycle greenhouse gas calculation for renewable fuels.

Section 552. Biomass-Based Diesel. Grandfathers up to one billion gallons of biomass-based diesel or the amount of biomass-based diesel that is mandated by EPA, whichever is greater, from the lifecycle greenhouse gas calculation of the renewable fuels standard.

Section 553. Modification of Definition of Renewable Biomass. Requires EPA, USDA, and FERC to arrange a National Academy of Sciences study to evaluate how sources of renewable biomass contribute to the goals of increasing America's energy independence, protecting the environment, and reducing global warming pollution. Permits revision of the definition of renewable biomass for the Renewable Fuels Standard and the Combined Efficiency and Renewable Electricity Standard, with the concurrence of the Secretary of Agriculture. The amendment also requires the Secretary of the Interior, Secretary of Agriculture, and Administrator of the Environmental Protection Agency to conduct a joint scientific review of how sources of biomass from federal lands contribute to the goals of increasing America's energy independence, protecting the environment, and reducing global warming pollution. Based on the scientific review, the agencies may promulgate a rule to modify the definition of "renewable biomass" from federal lands to advance these goals.