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AMENDMENT

OFFERED BY MR. WELCH OF VERMONT AND MR.

INSLEE OF WASHINGTON AND MS. Harman of California

At the end of subtitle B of title II, add the following:

1 SEC. 215. CERTIFIED STOVES PROGRAM.

2 (a) DEFINITIONS.—In this section:

3 (1) ADMINISTRATOR.—The term “Adminis-  
4 trator” means the Administrator of the Environ-  
5 mental Protection Agency.

6 (2) AGENCY.—The term “Agency” means the  
7 Environmental Protection Agency.

8 (3) WOOD STOVE OR PELLETT STOVE.—The  
9 term “wood stove or pellet stove” means a wood  
10 stove, pellet stove, or fireplace insert that uses wood  
11 or pellets for fuel.

12 (4) CERTIFIED STOVE.—The term “certified  
13 stove” means a wood stove or pellet stove that meets  
14 the standards of performance for new residential  
15 wood heaters under subpart AAA of part 60 of sub-  
16 chapter C of chapter I of title 40, Code of Federal  
17 Regulations (or successor regulations), as certified  
18 by the Administrator. Pellet stoves and fireplace in-  
19 serts using pellets for fuel meet ~~the~~ the same stand-  
*that are exempt from testing by the Administrator*  
*but*

1 ards of performance as wood stoves are considered  
2 certified for the purposes of this section.

3 (5) ELIGIBLE ENTITY.—The term “eligible enti-  
4 ty” means—

5 (A) a State, a local government, or a feder-  
6 ally recognized Indian tribe;

7 (B) Alaskan Native villages or regional or  
8 village corporations (as defined in, or estab-  
9 lished under, the Alaskan Native Claims Settle-  
10 ment Act (43 U.S.C. 1601 et seq.)); and

11 (C) a nonprofit organization or institution  
12 that—

13 (i) represents or provides pollution re-  
14 duction or educational services relating to  
15 wood smoke minimization to persons, orga-  
16 nizations, or communities; or

17 (ii) has, as its principal purpose, the  
18 promotion of air quality or energy effi-  
19 ciency.

20 (b) ESTABLISHMENT.—The Administrator shall es-  
21 tablish and carry out a program to assist in the replace-  
22 ment of wood stoves or pellet stoves that do not meet the  
23 standards of performance referred to in subsection (a)(4)  
24 by—

1 (1) requiring that each wood stove or pellet  
2 stove sold in the United States on and after the date  
3 of enactment of this Act meet the standards of per-  
4 formance referred to in subsection (a)(4);

5 (2) requiring that no wood stove or pellet stove  
6 replaced under this program is sold or returned to  
7 active service, but that it is instead destroyed and  
8 recycled to the maximum extent feasible;

9 (3) providing funds to an eligible entity to re-  
10 place a wood stove or pellet stove that does not meet  
11 the standards of performance in subsection (a)(4)  
12 with a certified stove, including funds to pay for—

13 (A) installation of a replacement certified  
14 stove; and

15 (B) necessary replacement of or repairs to  
16 ventilation, flues, chimneys, or other relevant  
17 items necessary for safe installation of a re-  
18 placement certified stove;

19 (4) in addition to any funds that may be appro-  
20 priated for the program under this subsection, using  
21 existing Federal, State, and local programs and in-  
22 centives, to the greatest extent practicable; and

23 (5) prioritizing the replacement of wood stoves  
24 or pellet stoves manufactured before July 1, 1990;  
25 and

1           (6) carrying out such other activities as the Ad-  
2           ministrator determines appropriate to facilitate the  
3           replacement of wood stoves or pellet stoves that do  
4           not meet the standards of performance referred to in  
5           subsection (a)(4).

6           (c) REGULATIONS.—The Administrator may promul-  
7           gate such regulations as are necessary to carry out the  
8           program established under subsection (b).

9           (d) FUNDING.—

10           (1) AUTHORIZATION OF APPROPRIATIONS.—  
11           There are authorized to be appropriated to carry out  
12           the program under this section \$20,000,000 for the  
13           period of fiscal years 2010 through 2014.

14           (2) DESIGNATED USE.—Of amounts appro-  
15           priated pursuant to this subsection—

16           (A) 25 percent shall be designated for use  
17           to carry out the program under this section on  
18           lands held in trust for the benefit of a federally  
19           recognized Indian tribe;

20           (B) 3 percent shall be designated for use  
21           to carry out the program under this section in  
22           Alaskan Native villages or regional or village  
23           corporations (as defined in, or established  
24           under, the Alaskan Native Claims Settlement  
25           Act (43 U.S.C. 1601 et seq.)); and

1 (C) 72 percent shall be designated for use  
2 to carry out the program under this section na-  
3 tionwide.

4 (3) REGULATORY PROGRAMS.—

5 (A) IN GENERAL.—No grant or loan pro-  
6 vided under this section shall be used to fund  
7 the costs of emissions reductions that are man-  
8 dated under Federal, State or local law.

9 (B) MANDATED.—For purposes of sub-  
10 paragraph (A), voluntary or elective emission  
11 reduction measures shall not be considered  
12 “mandated”, regardless of whether the reduc-  
13 tions are included in the implementation plan of  
14 a State.

15 (e) EPA AUTHORITY TO ACCEPT WOOD STOVE OR  
16 PELLET STOVE REPLACEMENT SUPPLEMENTAL ENVI-  
17 RONMENTAL PROJECTS.—

18 (1) IN GENERAL.—The Administrator may ac-  
19 cept (notwithstanding sections 3302 and 1301 of  
20 title 31, United States Code) wood stove or pellet  
21 stove replacement Supplemental Environmental  
22 Projects if such projects, as part of a settlement of  
23 any alleged violation of environmental law—

24 (A) protect human health or the environ-  
25 ment;

1 (B) are related to the underlying alleged  
2 violation;

3 (C) do not constitute activities that the de-  
4 fendant would otherwise be legally required to  
5 perform; and

6 (D) do not provide funds for the staff of  
7 the Agency or for contractors to carry out the  
8 Agency's internal operations.

9 (2) CERTIFICATION.—In any settlement agree-  
10 ment regarding an alleged violation of environmental  
11 law in which a defendant agrees to perform a wood  
12 stove or pellet stove replacement Supplemental Envi-  
13 ronmental Project, the Administrator shall require  
14 the defendant to include in the settlement docu-  
15 ments a certification under penalty of law that the  
16 defendant would have agreed to perform a com-  
17 parably valued, alternative project other than a wood  
18 stove or pellet stove replacement Supplemental Envi-  
19 ronmental Project if the Administrator were pre-  
20 cluded by law from accepting a wood stove or pellet  
21 stove replacement Supplemental Environmental  
22 Project. A failure by the Administrator to include  
23 this language in such a settlement agreement shall  
24 not create a cause of action against the United  
25 States under the Clean Air Act or any other law or

- 1 create a basis for overturning a settlement agree-
- 2 ment entered into by the United States.

