

Congress of the United States
Washington, DC 20515

April 29, 2010

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

The Government Accountability Office (GAO) recently issued a report, “Energy Star Program: Covert Testing Shows the Energy Star Program Certification Process Is Vulnerable to Fraud and Abuse.”¹ The GAO found that the Environmental Protection Agency (EPA) administered Energy Star program was extremely vulnerable to fraud and abuse.² EPA’s apparent failure with a program designed to reduce energy consumption and greenhouse gas emissions is alarming and it has put multiple millions of taxpayer dollars in serious jeopardy. Moreover, it calls into question EPA’s ability to take on the larger responsibility of overseeing the integrity of future greenhouse gas reduction efforts.

The Energy Star program touts itself as a trustworthy means for letting consumers know which products deliver the same or better performance as comparable models, while using less energy and saving money. The GAO found that, “companies can easily submit fictitious energy efficiency claims in order to obtain Energy Star qualification for a broad range of consumer products” and that the program provides “little assurance that the products with the Energy Star label are some of the most efficient on the market.”³ One of the most egregious examples of EPA’s failure is its approval of an air cleaner, whose application included a picture of a space heater, with a feather duster and fly strips attached. In all, EPA certified 15 out of 20 bogus products, only rejecting two applications.

Federal procurement policy and several tax benefit programs rely on the integrity of the Energy Star program in order to encourage energy efficient purchases. For example, the General Services Administration (GSA) and Defense Logistics Agency (DLA) are required to supply agencies with Energy Star or Federal Energy Management Program (FEMP) designated products.⁴ Moreover, the American Recovery and Reinvestment Act (ARRA) authorized a \$300 million state rebate grant program and increased and extended the residential tax credits to encourage the purchase of energy efficient appliances.⁵ According to the 2010 Joint Committee on Taxation Report, estimated tax expenditures for energy efficient tax credits will total \$3.2 billion from 2009-2013. Given the amount of federal dollars dependent on EPA’s competent

¹ Greg Kutz, ENERGY STAR PROGRAM: COVERT TESTING SHOWS THE ENERGY STAR PROGRAM CERTIFICATION PROCESS IS VULNERABLE TO FRAUD AND ABUSE (GAO March 2010)

² *Id.*

³ *Id.* at 7

⁴ Energy Policy Act of 2005, Pub. L. No. 109-58

⁵ American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5

administration of the Energy Star program, EPA's failure to ensure that the products purchased actually deliver a quantifiable benefit is appalling. In addition to wasting tax dollars, EPA also failed the consumers who rely on the Energy Star program to identify environmentally friendly appliances. It is particularly embarrassing that the agency specifically charged with protecting our nation's environment executed its responsibilities in such a careless fashion.

EPA's failure to effectively run the Energy Star program calls into question the agency's ability to police the integrity of other, more complex greenhouse gas mitigation programs. Many in Congress are looking to EPA to ensure the integrity of international offsets in the event that Congress passes legislation mandating reductions in carbon dioxide.⁶ Since a carbon offset is an instrument that represents the absence of something – in this case the absence of one ton of carbon dioxide emissions – the value associated with that offset is entirely dependent on the credibility and integrity of the program. Similarly, the value of the Energy Star program is derived from the certainty consumers have in the efficiency of the product.

The integrity of international offsets, generated primarily by countries such as China and India under the United Nations (U.N.) Clean Development Mechanism (CDM), have already been criticized by groups on the left and the right.⁷ This criticism is fueled by the continued failure of third party auditors to adhere to protocol when verifying the integrity of an offset project. Most recently, the U.N. panel that oversees the CDM process has suspended a fourth auditor in 15 months for failing to adhere to known guidelines.⁸ As the integrity of the U.N. mechanism is already being called into question, EPA would be expected to play a very important role in verifying the integrity of billions of international offsets.

Given EPA's inability to prevent fraud and abuse within the Energy Star program, and the significant role EPA could have under a cap-and-trade system, we respectfully request you provide answers to the following questions no later than May 14, 2010.

1. EPA has been repeatedly warned about vulnerabilities within the Energy Star program. In 2007, EPA's Inspector General warned the agency that there was no evidence that the self-verification process was effective and noted that the Energy Star program lacked in both quality assurance and sufficient oversight. What actions were taken in response to this and other prior warnings? Why were these measures ineffective in preventing fraud and abuse within the program?

⁶ H.R. 2454 The American Clean Energy and Security Act, 110th Congress (2009) (stating, "The [EPA] Administrator, in consultation with the Secretary of State, may issue, in accordance with this section, international offset credits based on activities that reduce or avoid greenhouse gas emissions, or increase sequestration of greenhouse gases, in a developing country.")

⁷ Simon Bullock, ET AL., *A DANGEROUS DISTRACTION: WHY OFFSETTING IS FAILING THE CLIMATE AND PEOPLE: THE EVIDENCE* (Friends of the Earth, 2009).

⁸ *U.N. Panel Suspends Two More Auditors*, GREENWIRE, March 29, 2010.

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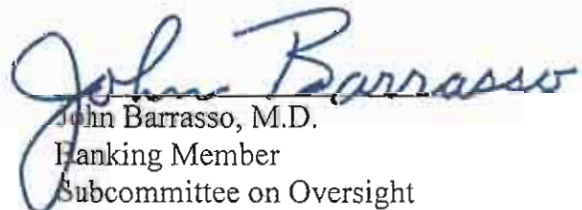
2. In 2008, the Energy Star program reported that it helped Americans prevent the emission of 43 million metric tons of GHG and saved more than \$19 billion in utility costs. Please detail how EPA determined the accuracy of these numbers.
3. As noted in this letter, several federal programs rely on the Energy Star label to make procurement decisions. What actions has EPA taken to ensure that the 40,000 products currently considered to be Energy Star products deserve the label?
4. Does EPA have plans to proactively test Energy Star products already on the market for compliance with the program's standards?
5. In the event that a product previously certified by the Energy Star program is not compliant, does EPA intend to inform the consumers who have already purchased this product? How would EPA conduct such a campaign?
6. Detail the actions taken by EPA to study the vulnerabilities of the international offset market.
7. Has EPA concluded that the offsets generated under the U.N.'s CDM would qualify under a mandatory compliance regime administered by EPA? If not, please identify additional actions EPA believes would be necessary to ensure the integrity of international offsets.
8. The U.N. has suspended 4 carbon emissions auditors in the last 15 months for their failure to adhere to protocol when verifying the integrity of an offset project. However, many of these auditing firms are permitted to continue to do existing work and are only barred from taking on new business. Is EPA concerned about the integrity of offset projects evaluated by the suspended firms?

If you have any question regarding this request, please contact Kristina Moore with Oversight and Government Reform at 202-225-5074 or Brian Clifford with Senate Environment and Public Works Subcommittee on Oversight at 202-224-6441.

Sincerely,



Darrell E. Issa
Ranking Member
House Oversight and Government
Reform Committee



John Barrasso, M.D.
Ranking Member
Subcommittee on Oversight
Senate Committee on Environment
and Public Works

cc: The Honorable Edolphus Towns, Chairman
Committee on Oversight and Government Reform