Title 3—The President

Memorandum of February 5, 2009

Appliance Efficiency Standards

Memorandum for the Secretary of Energy

Under the Energy Policy and Conservation Act of 1975 (EPCA), the Department of Energy (DOE) is required to establish by certain dates energy efficiency standards for a broad class of residential and commercial products. These products are appliances and other equipment used in consumers’ homes and in commercial establishments. In the Energy Policy Act of 2005 (EPACT), the Congress directed the DOE to develop a plan to issue expeditiously efficiency standards for those products with respect to which the Department had not yet met the deadlines specified in the EPCA.

In 2005, 14 States and various other entities brought suit alleging that the DOE had failed to comply with deadlines and other requirements in the EPCA. In November 2006, the DOE entered into a consent decree under which the DOE agreed to publish final rules regarding 22 product categories by specific deadlines, the latest of which is June 30, 2011. The consent decree includes target dates for the rulemaking processes and sets deadlines for issuance of final rules with respect to each product category. The Energy Independence and Security Act of 2007 (EISA) directed the DOE to establish energy standards for additional product categories.

The DOE remains subject to outstanding deadlines with respect to 15 of the 22 product categories covered by the consent decree, as well as statutory deadlines for a number of additional product categories. These efficiency standards, once implemented, will result in significant energy savings for the American people.

Therefore, I request that:

(a) the DOE take all necessary steps, consistent with the consent decree, EPACT, and EISA, to finalize legally required efficiency standards as expeditiously as possible and consistent with all applicable judicial and statutory deadlines. Such standards include, most immediately, those covered by the five energy efficiency rules with deadlines prior to and including August 8, 2009;

(b) with respect to standards subject to judicial and statutory deadlines later than August 8, 2009, the DOE work to complete prior to the applicable deadline those standards that will result in the greatest energy savings. To undertake this task, the DOE should quantify, to the extent feasible and consistent with statutory requirements, the expected annual energy savings from the relevant standards. The DOE must, however, ensure that it meets applicable deadlines for all standards.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.
Other Presidential Documents

You are hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA

THE WHITE HOUSE,

Memorandum of March 3, 2009

The Endangered Species Act

Memorandum for the Heads of Executive Departments and Agencies

The Endangered Species Act (ESA), 16 U.S.C. 1531 et seq., reflects one of the Nation’s profound commitments. Pursuant to that Act, the Federal Government has long required a process of broad interagency consultation to ensure the application of scientific and technical expertise to decisions that may affect threatened or endangered species. Under that interagency process, executive departments and agencies (agencies) contemplating an action that may affect endangered or threatened species have long been required, except in certain limited circumstances, to consult with, and in some circumstances obtain the prior written concurrence of, the Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS)—the expert agencies that have the primary responsibility to ensure that the ESA is implemented in accordance with the law.

On December 16, 2008, the Departments of the Interior and Commerce issued a joint regulation that modified these longstanding requirements. See 73 Fed. Reg. 76272. This new regulation expands the circumstances in which an agency may determine not to consult with, or obtain the written concurrence of, the FWS or NMFS prior to undertaking an action that may affect threatened or endangered species. But under the new regulation, agencies may continue the previous practice of consulting with, and obtaining the written concurrence of, the FWS and NMFS as a matter of discretion.

I hereby request the Secretaries of the Interior and Commerce to review the regulation issued on December 16, 2008, and to determine whether to undertake new rulemaking procedures with respect to consultative and concurrence processes that will promote the purposes of the ESA.

Until such review is completed, I request the heads of all agencies to exercise their discretion, under the new regulation, to follow the prior longstanding consultation and concurrence practices involving the FWS and NMFS.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. Agencies shall carry out the provisions of this memorandum to the extent permitted by law and consistent with statutory authorities.