

which the retailer charges the consumer the market price for propane, kerosene, or heating oil, but the cost of the propane, kerosene, or heating oil may exceed a maximum amount stated in the contract.

**(b) Assistance**

At the request of the chief executive officer of a State, the Secretary shall provide information, technical assistance, and funding—

(1) to develop education and outreach programs to encourage consumers to fill their storage facilities for propane, kerosene, and heating oil during the summer months; and

(2) to promote the use of budget contracts, price cap contracts, fixed-price contracts, and other advantageous financial arrangements,

to avoid severe seasonal price increases for and supply shortages of those products.

**(c) Preference**

In implementing this section, the Secretary shall give preference to States that contribute public funds or leverage private funds to develop State summer fill and fuel budgeting programs.

**(d) Authorization of appropriations**

There are authorized to be appropriated to carry out this section—

(1) \$25,000,000 for fiscal year 2001; and

(2) such sums as are necessary for each fiscal year thereafter.

(Pub. L. 94-163, title II, §273, as added Pub. L. 106-469, title VI, §602(a), Nov. 9, 2000, 114 Stat. 2040; amended Pub. L. 109-58, title III, §301(b)(2), Aug. 8, 2005, 119 Stat. 683.)

AMENDMENTS

2005—Subsec. (e). Pub. L. 109-58 struck out heading and text of subsec. (e). Text read as follows: “Section 6285 of this title does not apply to this section.”

PART D—EXPIRATION

**§ 6285. Repealed. Pub. L. 109-58, title III, § 301(b)(3), Aug. 8, 2005, 119 Stat. 683**

Section, Pub. L. 94-163, title II, §281, as added Pub. L. 99-58, title I, §104(a), July 2, 1985, 99 Stat. 104; amended Pub. L. 100-373, §1, July 19, 1988, 102 Stat. 878; Pub. L. 101-262, §2(c), Mar. 31, 1990, 104 Stat. 124; Pub. L. 101-360, §2(c), Aug. 10, 1990, 104 Stat. 421; Pub. L. 101-383, §2(3), Sept. 15, 1990, 104 Stat. 727; Pub. L. 103-406, title I, §103, Oct. 22, 1994, 108 Stat. 4209; Pub. L. 104-306, §1(4), Oct. 14, 1996, 110 Stat. 3810; Pub. L. 105-177, §1(5), June 1, 1998, 112 Stat. 106; Pub. L. 106-64, §1(3), Oct. 5, 1999, 113 Stat. 511; Pub. L. 106-469, title I, §104(4), Nov. 9, 2000, 114 Stat. 2033; Pub. L. 108-7, div. F, title III, §339(b)(2), Feb. 20, 2003, 117 Stat. 279, provided for the expiration of all authority under this subchapter at midnight Sept. 30, 2008.

SUBCHAPTER III—IMPROVING ENERGY EFFICIENCY

PART A—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

CODIFICATION

This part was, in the original, designated part B and has been redesignated as part A for purposes of codification.

**§ 6291. Definitions**

For purposes of this part:

(1) The term “consumer product” means any article (other than an automobile, as defined in section 32901(a)(3) of title 49) of a type—

(A) which in operation consumes, or is designed to consume, energy or, with respect to showerheads, faucets, water closets, and urinals, water; and

(B) which, to any significant extent, is distributed in commerce for personal use or consumption by individuals;

without regard to whether such article of such type is in fact distributed in commerce for personal use or consumption by an individual, except that such term includes fluorescent lamp ballasts, general service fluorescent lamps, incandescent reflector lamps, showerheads, faucets, water closets, and urinals distributed in commerce for personal or commercial use or consumption.

(2) The term “covered product” means a consumer product of a type specified in section 6292 of this title.

(3) The term “energy” means electricity, or fossil fuels. The Secretary may, by rule, include other fuels within the meaning of the term “energy” if he determines that such inclusion is necessary or appropriate to carry out the purposes of this chapter.

(4) The term “energy use” means the quantity of energy directly consumed by a consumer product at point of use, determined in accordance with test procedures under section 6293 of this title.

(5) The term “energy efficiency” means the ratio of the useful output of services from a consumer product to the energy use of such product, determined in accordance with test procedures under section 6293 of this title.

(6) The term “energy conservation standard” means—

(A) a performance standard which prescribes a minimum level of energy efficiency or a maximum quantity of energy use, or, in the case of showerheads, faucets, water closets, and urinals, water use, for a covered product, determined in accordance with test procedures prescribed under section 6293 of this title; or

(B) a design requirement for the products specified in paragraphs (6), (7), (8), (10), (15), (16), (17), and (19)<sup>1</sup> of section 6292(a) of this title; and

includes any other requirements which the Secretary may prescribe under section 6295(r) of this title.

(7) The term “estimated annual operating cost” means the aggregate retail cost of the energy which is likely to be consumed annually, and in the case of showerheads, faucets, water closets, and urinals, the aggregate retail cost of water and wastewater treatment services likely to be incurred annually, in representative use of a consumer product, determined in accordance with section 6293 of this title.

(8) The term “measure of energy consumption” means energy use, energy efficiency, estimated annual operating cost, or other measure of energy consumption.

<sup>1</sup> See References in Text note below.

(9) The term “class of covered products” means a group of covered products, the functions or intended uses of which are similar (as determined by the Secretary).

(10) The term “manufacture” means to manufacture, produce, assemble or import.

(11) The terms “import” and “importation” mean to import into the customs territory of the United States.

(12) The term “manufacturer” means any person who manufactures a consumer product.

(13) The term “retailer” means a person to whom a consumer product is delivered or sold, if such delivery or sale is for purposes of sale or distribution in commerce to purchasers who buy such product for purposes other than resale.

(14) The term “distributor” means a person (other than a manufacturer or retailer) to whom a consumer product is delivered or sold for purposes of distribution in commerce.

(15)(A) The term “private labeler” means an owner of a brand or trademark on the label of a consumer product which bears a private label.

(B) A consumer product bears a private label if (i) such product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of such product, (ii) the person with whose brand or trademark such product (or container) is labeled has authorized or caused such product to be so labeled, and (iii) the brand or trademark of a manufacturer of such product does not appear on such label.

(16) The terms “to distribute in commerce” and “distribution in commerce” mean to sell in commerce, to import, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(17) The term “commerce” means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(18) The term “Commission” means the Federal Trade Commission.

(19) The term “AV” is the adjusted volume for refrigerators, refrigerator-freezers, and freezers, as defined in the applicable test procedure prescribed under section 6293 of this title.

(20) The term “annual fuel utilization efficiency” means the efficiency descriptor for furnaces and boilers, determined using test procedures prescribed under section 6293 of this title and based on the assumption that all—

(A) weatherized warm air furnaces or boilers are located out-of-doors;

(B) warm air furnaces which are not weatherized are located indoors and all combustion and ventilation air is admitted through grills or ducts from the outdoors and does not communicate with air in the conditioned space; and

(C) boilers which are not weatherized are located within the heated space.

(21) The term “central air conditioner” means a product, other than a packaged terminal air conditioner, which—

(A) is powered by single phase electric current;

(B) is air-cooled;

(C) is rated below 65,000 Btu per hour;

(D) is not contained within the same cabinet as a furnace the rated capacity of which is above 225,000 Btu per hour; and

(E) is a heat pump or a cooling only unit.

(22) The term “efficiency descriptor” means the ratio of the useful output to the total energy input, determined using the test procedures prescribed under section 6293 of this title and expressed for the following products in the following terms:

(A) For furnaces and direct heating equipment, annual fuel utilization efficiency.

(B) For room air conditioners, energy efficiency ratio.

(C) For central air conditioning and central air conditioning heat pumps, seasonal energy efficiency ratio.

(D) For water heaters, energy factor.

(E) For pool heaters, thermal efficiency.

(23) The term “furnace” means a product which utilizes only single-phase electric current, or single-phase electric current or DC current in conjunction with natural gas, propane, or home heating oil, and which—

(A) is designed to be the principal heating source for the living space of a residence;

(B) is not contained within the same cabinet with a central air conditioner whose rated cooling capacity is above 65,000 Btu per hour;

(C) is an electric central furnace, electric boiler, forced-air central furnace, gravity central furnace, or low pressure steam or hot water boiler; and

(D) has a heat input rate of less than 300,000 Btu per hour for electric boilers and low pressure steam or hot water boilers and less than 225,000 Btu per hour for forced-air central furnaces, gravity central furnaces, and electric central furnaces.

(24) The terms “heat pump” or “reverse cycle” mean a product, other than a packaged terminal heat pump, which—

(A) consists of one or more assemblies;

(B) is powered by single phase electric current;

(C) is rated below 65,000 Btu per hour;

(D) utilizes an indoor conditioning coil, compressors, and refrigerant-to-outdoor-air heat exchanger to provide air heating; and

(E) may also provide air cooling, dehumidifying, humidifying circulating, and air cleaning.

(25) The term “pool heater” means an appliance designed for heating nonpotable water contained at atmospheric pressure, including heating water in swimming pools, spas, hot tubs and similar applications.

(26) The term “thermal efficiency of pool heaters” means a measure of the heat in the water delivered at the heater outlet divided by the heat input of the pool heater as measured

under test conditions specified in section 2.8.1 of the American National Standard for Gas Fired Pool Heaters, Z21.56-1986, or as may be prescribed by the Secretary.

(27) The term “water heater” means a product which utilizes oil, gas, or electricity to heat potable water for use outside the heater upon demand, including—

(A) storage type units which heat and store water at a thermostatically controlled temperature, including gas storage water heaters with an input of 75,000 Btu per hour or less, oil storage water heaters with an input of 105,000 Btu per hour or less, and electric storage water heaters with an input of 12 kilowatts or less;

(B) instantaneous type units which heat water but contain no more than one gallon of water per 4,000 Btu per hour of input, including gas instantaneous water heaters with an input of 200,000 Btu per hour or less, oil instantaneous water heaters with an input of 210,000 Btu per hour or less, and electric instantaneous water heaters with an input of 12 kilowatts or less; and

(C) heat pump type units, with a maximum current rating of 24 amperes at a voltage no greater than 250 volts, which are products designed to transfer thermal energy from one temperature level to a higher temperature level for the purpose of heating water, including all ancillary equipment such as fans, storage tanks, pumps, or controls necessary for the device to perform its function.

(28) The term “weatherized warm air furnace or boiler” means a furnace or boiler designed for installation outdoors, approved for resistance to wind, rain, and snow, and supplied with its own venting system.

(29)(A) The term “fluorescent lamp ballast” means a device which is used to start and operate fluorescent lamps by providing a starting voltage and current and limiting the current during normal operation.

(B) The term “ANSI standard” means a standard developed by a committee accredited by the American National Standards Institute.

(C) The term “ballast efficacy factor” means the relative light output divided by the power input of a fluorescent lamp ballast, as measured under test conditions specified in ANSI standard C82.2-1984, or as may be prescribed by the Secretary.

(D)(i) The term “F40T12 lamp” means a nominal 40 watt tubular fluorescent lamp which is 48 inches in length and one-and-a-half inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-1010-1).

(ii) The term “F96T12 lamp” means a nominal 75 watt tubular fluorescent lamp which is 96 inches in length and one-and-a-half inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-3007-1).

(iii) The term “F96T12HO lamp” means a nominal 110 watt tubular fluorescent lamp which is 96 inches in length and one-and-a-half inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-1019-1).

(E) The term “input current” means the root-mean-square (RMS) current in amperes delivered to a fluorescent lamp ballast.

(F) The term “luminaire” means a complete lighting unit consisting of a fluorescent lamp or lamps, together with parts designed to distribute the light, to position and protect such lamps, and to connect such lamps to the power supply through the ballast.

(G) The term “ballast input voltage” means the rated input voltage of a fluorescent lamp ballast.

(H) The term “nominal lamp watts” means the wattage at which a fluorescent lamp is designed to operate.

(I) The term “power factor” means the power input divided by the product of ballast input voltage and input current of a fluorescent lamp ballast, as measured under test conditions specified in ANSI standard C82.2-1984, or as may be prescribed by the Secretary.

(J) The term “power input” means the power consumption in watts of a ballast and fluorescent lamp or lamps, as determined in accordance with the test procedures specified in ANSI standard C82.2-1984, or as may be prescribed by the Secretary.

(K) The term “relative light output” means the light output delivered through the use of a ballast divided by the light output delivered through the use of a reference ballast, expressed as a percent, as determined in accordance with the test procedures specified in ANSI standard C82.2-1984, or as may be prescribed by the Secretary.

(L) The term “residential building” means a structure or portion of a structure which provides facilities or shelter for human residency, except that such term does not include any multifamily residential structure of more than three stories above grade.

(M) The term “F34T12 lamp” (also known as a “F40T12/ES lamp”) means a nominal 34 watt tubular fluorescent lamp that is 48 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-1006-1).

(N) The term “F96T12/ES lamp” means a nominal 60 watt tubular fluorescent lamp that is 96 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-3006-1).

(O) The term “F96T12HO/ES lamp” means a nominal 95 watt tubular fluorescent lamp that is 96 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-1017-1).

(P) The term “replacement ballast” means a ballast that—

(i) is designed for use to replace an existing ballast in a previously installed luminaire;

(ii) is marked “FOR REPLACEMENT USE ONLY”;

(iii) is shipped by the manufacturer in packages containing not more than 10 ballasts; and

(iv) has output leads that when fully extended are a total length that is less than the length of the lamp with which the ballast is intended to be operated.

(30)(A) Except as provided in subparagraph (E), the term “fluorescent lamp” means a low pressure mercury electric-discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light, including only the following:

(i) Any straight-shaped lamp (commonly referred to as 4-foot medium bi-pin lamps) with medium bi-pin bases of nominal overall length of 48 inches and rated wattage of 28 or more.

(ii) Any U-shaped lamp (commonly referred to as 2-foot U-shaped lamps) with medium bi-pin bases of nominal overall length between 22 and 25 inches and rated wattage of 28 or more.

(iii) Any rapid start lamp (commonly referred to as 8-foot high output lamps) with recessed double contact bases of nominal overall length of 96 inches and 0.800 nominal amperes, as defined in ANSI C78.1-1978 and related supplements.

(iv) Any instant start lamp (commonly referred to as 8-foot slimline lamps) with single pin bases of nominal overall length of 96 inches and rated wattage of 52 or more, as defined in ANSI C78.3-1978 (R1984) and related supplement ANSI C78.3a-1985.

(B) The term “general service fluorescent lamp” means fluorescent lamps which can be used to satisfy the majority of fluorescent applications, but does not include any lamp designed and marketed for the following nongeneral lighting applications:

(i) Fluorescent lamps designed to promote plant growth.

(ii) Fluorescent lamps specifically designed for cold temperature installations.

(iii) Colored fluorescent lamps.

(iv) Impact-resistant fluorescent lamps.

(v) Reflectorized or aperture lamps.

(vi) Fluorescent lamps designed for use in reprographic equipment.

(vii) Lamps primarily designed to produce radiation in the ultra-violet region of the spectrum.

(viii) Lamps with a color rendering index of 87 or greater.

(C) Except as provided in subparagraph (E), the term “incandescent lamp” means a lamp in which light is produced by a filament heated to incandescence by an electric current, including only the following:

(i) Any lamp (commonly referred to as lower wattage nonreflector general service lamps, including any tungsten-halogen lamp) that has a rated wattage between 30 and 199 watts, has an E26 medium screw base, has a rated voltage or voltage range that lies at least partially within 115 and 130 volts, and is not a reflector lamp.

(ii) Any lamp (commonly referred to as a reflector lamp) which is not colored or designed for rough or vibration service applications, that contains an inner reflective coating on the outer bulb to direct the light, an R, PAR, ER, BR, BPAR, or similar bulb shapes with E26 medium screw bases, a rated voltage or voltage range that lies at least

partially within 115 and 130 volts, a diameter which exceeds 2.25 inches, and has a rated wattage that is 40 watts or higher<sup>2</sup>

(iii) Any general service incandescent lamp (commonly referred to as a high- or higher-wattage lamp) that has a rated wattage above 199 watts (above 205 watts for a high wattage reflector lamp).

(D) GENERAL SERVICE INCANDESCENT LAMP.—

(i) IN GENERAL.—The term “general service incandescent lamp” means a standard incandescent or halogen type lamp that—

(I) is intended for general service applications;

(II) has a medium screw base;

(III) has a lumen range of not less than 310 lumens and not more than 2,600 lumens; and

(IV) is capable of being operated at a voltage range at least partially within 110 and 130 volts.

(ii) EXCLUSIONS.—The term “general service incandescent lamp” does not include the following incandescent lamps:

(I) An appliance lamp.

(II) A black light lamp.

(III) A bug lamp.

(IV) A colored lamp.

(V) An infrared lamp.

(VI) A left-hand thread lamp.

(VII) A marine lamp.

(VIII) A marine signal service lamp.

(IX) A mine service lamp.

(X) A plant light lamp.

(XI) A reflector lamp.

(XII) A rough service lamp.

(XIII) A shatter-resistant lamp (including a shatter-proof lamp and a shatter-protected lamp).

(XIV) A sign service lamp.

(XV) A silver bowl lamp.

(XVI) A showcase lamp.

(XVII) A 3-way incandescent lamp.

(XVIII) A traffic signal lamp.

(XIX) A vibration service lamp.

(XX) A G shape lamp (as defined in ANSI C78.20-2003 and C79.1-2002<sup>3</sup> with a diameter of 5 inches or more.

(XXI) A T shape lamp (as defined in ANSI C78.20-2003 and C79.1-2002) and<sup>4</sup> that uses not more than 40 watts or has a length of more than 10 inches.

(XXII) A B, BA, CA, F, G16-1/2, G-25, G30, S, or M-14 lamp (as defined in ANSI C79.1-2002 and ANSI C78.20-2003) of 40 watts or less.

(E) The terms “fluorescent lamp” and “incandescent lamp” do not include any lamp excluded by the Secretary, by rule, as a result of a determination that standards for such lamp would not result in significant energy savings because such lamp is designed for special applications or has special characteristics not available in reasonably substitutable lamp types.

<sup>2</sup>So in original. Probably should be followed by a period.

<sup>3</sup>So in original. Probably should be followed by a closing parenthesis.

<sup>4</sup>So in original. The word “and” probably should not appear.

(F) The term “incandescent reflector lamp” means a lamp described in subparagraph (C)(ii).

(G) The term “average lamp efficacy” means the lamp efficacy readings taken over a statistically significant period of manufacture with the readings averaged over that period.

(H) The term “base” means the portion of the lamp which connects with the socket as described in ANSI C81.61-1990.

(I) The term “bulb shape” means the shape of lamp, especially the glass bulb with designations for bulb shapes found in ANSI C79.1-1980 (R1984).

(J) The term “color rendering index” or “CRI” means the measure of the degree of color shift objects undergo when illuminated by a light source as compared with the color of those same objects when illuminated by a reference source of comparable color temperature.

(K) The term “correlated color temperature” means the absolute temperature of a blackbody whose chromaticity most nearly resembles that of the light source.

(L) The term “IES” means the Illuminating Engineering Society of North America.

(M) The term “lamp efficacy” means the lumen output of a lamp divided by its wattage, expressed in lumens per watt (LPW).

(N) The term “lamp type” means all lamps designated as having the same electrical and lighting characteristics and made by one manufacturer.

(O) The term “lamp wattage” means the total electrical power consumed by a lamp in watts, after the initial seasoning period referenced in the appropriate IES standard test procedure and including, for fluorescent, arc watts plus cathode watts.

(P) The terms “life” and “lifetime” mean length of operating time of a statistically large group of lamps between first use and failure of 50 percent of the group in accordance with test procedures described in the IES Lighting Handbook-Reference Volume.

(Q) The term “lumen output” means total luminous flux (power) of a lamp in lumens, as measured in accordance with applicable IES standards as determined by the Secretary.

(R) The term “tungsten-halogen lamp” means a gas-filled tungsten filament incandescent lamp containing a certain proportion of halogens in an inert gas.

(S)(i) The term “medium base compact fluorescent lamp” means an integrally ballasted fluorescent lamp with a medium screw base and a rated input voltage of 115 to 130 volts and which is designed as a direct replacement for a general service incandescent lamp.

(ii) The term “medium base compact fluorescent lamp” does not include—

(I) any lamp that is—

(aa) specifically designed to be used for special purpose applications; and

(bb) unlikely to be used in general purpose applications, such as the applications described in subparagraph (D); or

(II) any lamp not described in subparagraph (D) that is excluded by the Secretary, by rule, because the lamp is—

(aa) designed for special applications; and

(bb) unlikely to be used in general purpose applications.

(T) APPLIANCE LAMP.—The term “appliance lamp” means any lamp that—

(i) is specifically designed to operate in a household appliance, has a maximum wattage of 40 watts, and is sold at retail, including an oven lamp, refrigerator lamp, and vacuum cleaner lamp; and

(ii) is designated and marketed for the intended application, with—

(I) the designation on the lamp packaging; and

(II) marketing materials that identify the lamp as being for appliance use.

(U) CANDELABRA BASE INCANDESCENT LAMP.—The term “candelabra base incandescent lamp” means a lamp that uses candelabra screw base as described in ANSI C81.61-2006, Specifications for Electric Bases, common designations E11 and E12.

(V) INTERMEDIATE BASE INCANDESCENT LAMP.—The term “intermediate base incandescent lamp” means a lamp that uses an intermediate screw base as described in ANSI C81.61-2006, Specifications for Electric Bases, common designation E17.

(W) MODIFIED SPECTRUM.—The term “modified spectrum” means, with respect to an incandescent lamp, an incandescent lamp that—

(i) is not a colored incandescent lamp; and

(ii) when operated at the rated voltage and wattage of the incandescent lamp—

(I) has a color point with (x,y) chromaticity coordinates on the Commission Internationale de l’Eclairage (C.I.E.) 1931 chromaticity diagram that lies below the black-body locus; and

(II) has a color point with (x,y) chromaticity coordinates on the C.I.E. 1931 chromaticity diagram that lies at least 4 MacAdam steps (as referenced in IESNA LM16) distant from the color point of a clear lamp with the same filament and bulb shape, operated at the same rated voltage and wattage.

(X) ROUGH SERVICE LAMP.—The term “rough service lamp” means a lamp that—

(i) has a minimum of 5 supports with filament configurations that are C-7A, C-11, C-17, and C-22 as listed in Figure 6-12 of the 9th edition of the IESNA Lighting handbook, or similar configurations where lead wires are not counted as supports; and

(ii) is designated and marketed specifically for “rough service” applications, with—

(I) the designation appearing on the lamp packaging; and

(II) marketing materials that identify the lamp as being for rough service.

(Y) 3-WAY INCANDESCENT LAMP.—The term “3-way incandescent lamp” includes an incandescent lamp that—

(i) employs 2 filaments, operated separately and in combination, to provide 3 light levels; and

(ii) is designated on the lamp packaging and marketing materials as being a 3-way incandescent lamp.

(Z) SHATTER-RESISTANT LAMP, SHATTER-PROOF LAMP, OR SHATTER-PROTECTED LAMP.—The terms “shatter-resistant lamp”, “shatter-proof lamp”, and “shatter-protected lamp” mean a lamp that—

(i) has a coating or equivalent technology that is compliant with NSF/ANSI 51 and is designed to contain the glass if the glass envelope of the lamp is broken; and

(ii) is designated and marketed for the intended application, with—

(I) the designation on the lamp packaging; and

(II) marketing materials that identify the lamp as being shatter-resistant, shatter-proof, or shatter-protected.

(AA) VIBRATION SERVICE LAMP.—The term “vibration service lamp” means a lamp that—

(i) has filament configurations that are C-5, C-7A, or C-9, as listed in Figure 6-12 of the 9th Edition of the IESNA Lighting Handbook or similar configurations;

(ii) has a maximum wattage of 60 watts;

(iii) is sold at retail in packages of 2 lamps or less; and

(iv) is designated and marketed specifically for vibration service or vibration-resistant applications, with—

(I) the designation appearing on the lamp packaging; and

(II) marketing materials that identify the lamp as being vibration service only.

(BB) GENERAL SERVICE LAMP.—

(i) IN GENERAL.—The term “general service lamp” includes—

(I) general service incandescent lamps;

(II) compact fluorescent lamps;

(III) general service light-emitting diode (LED or OLED) lamps; and

(IV) any other lamps that the Secretary determines are used to satisfy lighting applications traditionally served by general service incandescent lamps.

(ii) EXCLUSIONS.—The term “general service lamp” does not include—

(I) any lighting application or bulb shape described in any of subclauses (I) through (XXII) of subparagraph (D)(ii); or

(II) any general service fluorescent lamp or incandescent reflector lamp.

(CC) LIGHT-EMITTING DIODE; LED.—

(i) IN GENERAL.—The terms “light-emitting diode” and “LED” means a p-n junction solid state device the radiated output of which is a function of the physical construction, material used, and exciting current of the device.

(ii) OUTPUT.—The output of a light-emitting diode may be in—

(I) the infrared region;

(II) the visible region; or

(III) the ultraviolet region.

(DD) ORGANIC LIGHT-EMITTING DIODE; OLED.—The terms “organic light-emitting diode” and “OLED” mean a thin-film light-emitting device that typically consists of a series of organic layers between 2 electrical contacts (electrodes).

(EE) COLORED INCANDESCENT LAMP.—The term “colored incandescent lamp” means an

incandescent lamp designated and marketed as a colored lamp that has—

(i) a color rendering index of less than 50, as determined according to the test method given in C.I.E. publication 13.3-1995; or

(ii) a correlated color temperature of less than 2,500K, or greater than 4,600K, where correlated temperature is computed according to the Journal of Optical Society of America, Vol. 58, pages 1528-1595 (1986).

(31)(A) The term “water use” means the quantity of water flowing through a showerhead, faucet, water closet, or urinal at point of use, determined in accordance with test procedures under section 6293 of this title.

(B) The term “ASME” means the American Society of Mechanical Engineers.

(C) The term “ANSI” means the American National Standards Institute.

(D) The term “showerhead” means any showerhead (including a handheld showerhead), except a safety shower showerhead.

(E) The term “faucet” means a lavatory faucet, kitchen faucet, metering faucet, or replacement aerator for a lavatory or kitchen faucet.

(F) The term “water closet” has the meaning given such term in ASME A112.19.2M-1990, except such term does not include fixtures designed for installation in prisons.

(G) The term “urinal” has the meaning given such term in ASME A112.19.2M-1990, except such term does not include fixtures designed for installation in prisons.

(H) The terms “blowout”, “flushometer tank”, “low consumption”, and “flushometer valve” have the meaning given such terms in ASME A112.19.2M-1990.

(32) The term “battery charger” means a device that charges batteries for consumer products, including battery chargers embedded in other consumer products.

(33)(A) The term “commercial prerinse spray valve” means a handheld device designed and marketed for use with commercial dishwashing and ware washing equipment that sprays water on dishes, flatware, and other food service items for the purpose of removing food residue before cleaning the items.

(B) The Secretary may modify the definition of “commercial prerinse spray valve” by rule—

(i) to include products—

(I) that are extensively used in conjunction with commercial dishwashing and ware washing equipment;

(II) the application of standards to which would result in significant energy savings; and

(III) the application of standards to which would meet the criteria specified in section 6295(o)(4) of this title; and

(ii) to exclude products—

(I) that are used for special food service applications;

(II) that are unlikely to be widely used in conjunction with commercial dishwashing and ware washing equipment; and

(III) the application of standards to which would not result in significant energy savings.

(34) The term “dehumidifier” means a self-contained, electrically operated, and mechanically encased assembly consisting of—

- (A) a refrigerated surface (evaporator) that condenses moisture from the atmosphere;
- (B) a refrigerating system, including an electric motor;
- (C) an air-circulating fan; and
- (D) means for collecting or disposing of the condensate.

(35)(A) The term “distribution transformer” means a transformer that—

- (i) has an input voltage of 34.5 kilovolts or less;
- (ii) has an output voltage of 600 volts or less; and
- (iii) is rated for operation at a frequency of 60 Hertz.

(B) The term “distribution transformer” does not include—

- (i) a transformer with multiple voltage taps, the highest of which equals at least 20 percent more than the lowest;
- (ii) a transformer that is designed to be used in a special purpose application and is unlikely to be used in general purpose applications, such as a drive transformer, rectifier transformer, auto-transformer, Uninterruptible Power System transformer, impedance transformer, regulating transformer, sealed and nonventilating transformer, machine tool transformer, welding transformer, grounding transformer, or testing transformer; or
- (iii) any transformer not listed in clause (ii) that is excluded by the Secretary by rule because—

- (I) the transformer is designed for a special application;
- (II) the transformer is unlikely to be used in general purpose applications; and
- (III) the application of standards to the transformer would not result in significant energy savings.

(36) EXTERNAL POWER SUPPLY.—

(A) IN GENERAL.—The term “external power supply” means an external power supply circuit that is used to convert household electric current into DC current or lower-voltage AC current to operate a consumer product.

(B) ACTIVE MODE.—The term “active mode” means the mode of operation when an external power supply is connected to the main electricity supply and the output is connected to a load.

(C) CLASS A EXTERNAL POWER SUPPLY.—

(i) IN GENERAL.—The term “class A external power supply” means a device that—

- (I) is designed to convert line voltage AC input into lower voltage AC or DC output;
- (II) is able to convert to only 1 AC or DC output voltage at a time;
- (III) is sold with, or intended to be used with, a separate end-use product that constitutes the primary load;
- (IV) is contained in a separate physical enclosure from the end-use product;

(V) is connected to the end-use product via a removable or hard-wired male/female electrical connection, cable, cord, or other wiring; and

(VI) has nameplate output power that is less than or equal to 250 watts.

(ii) EXCLUSIONS.—The term “class A external power supply” does not include any device that—

(I) requires Federal Food and Drug Administration listing and approval as a medical device in accordance with section 360c of title 21; or

(II) powers the charger of a detachable battery pack or charges the battery of a product that is fully or primarily motor operated.

(D) NO-LOAD MODE.—The term “no-load mode” means the mode of operation when an external power supply is connected to the main electricity supply and the output is not connected to a load.

(37) The term “illuminated exit sign” means a sign that—

(A) is designed to be permanently fixed in place to identify an exit; and

(B) consists of an electrically powered integral light source that—

- (i) illuminates the legend “EXIT” and any directional indicators; and
- (ii) provides contrast between the legend, any directional indicators, and the background.

(38) The term “low-voltage dry-type distribution transformer” means a distribution transformer that—

- (A) has an input voltage of 600 volts or less;
- (B) is air-cooled; and
- (C) does not use oil as a coolant.

(39) The term “pedestrian module” means a light signal used to convey movement information to pedestrians.

(40) The term “refrigerated bottled or canned beverage vending machine” means a commercial refrigerator that cools bottled or canned beverages and dispenses the bottled or canned beverages on payment.

(41) The term “standby mode” means the lowest power consumption mode, as established on an individual product basis by the Secretary, that—

- (A) cannot be switched off or influenced by the user; and
- (B) may persist for an indefinite time when an appliance is—
  - (i) connected to the main electricity supply; and
  - (ii) used in accordance with the instructions of the manufacturer.

(42) The term “torchiere” means a portable electric lamp with a reflector bowl that directs light upward to give indirect illumination.

(43) The term “traffic signal module” means a standard 8-inch (200mm) or 12-inch (300mm) traffic signal indication that—

- (A) consists of a light source, a lens, and all other parts necessary for operation; and

- (B) communicates movement messages to drivers through red, amber, and green colors.
- (44) The term “transformer” means a device consisting of 2 or more coils of insulated wire that transfers alternating current by electromagnetic induction from 1 coil to another to change the original voltage or current value.
- (45)(A) The term “unit heater” means a self-contained fan-type heater designed to be installed within the heated space.
- (B) The term “unit heater” does not include a warm air furnace.
- (46) HIGH INTENSITY DISCHARGE LAMP.—
- (A) IN GENERAL.—The term “high intensity discharge lamp” means an electric-discharge lamp in which—
- (i) the light-producing arc is stabilized by the arc tube wall temperature; and
  - (ii) the arc tube wall loading is in excess of 3 Watts/cm<sup>2</sup>.
- (B) INCLUSIONS.—The term “high intensity discharge lamp” includes mercury vapor, metal halide, and high-pressure sodium lamps described in subparagraph (A).
- (47) MERCURY VAPOR LAMP.—
- (A) IN GENERAL.—The term “mercury vapor lamp” means a high intensity discharge lamp in which the major portion of the light is produced by radiation from mercury typically operating at a partial vapor pressure in excess of 100,000 Pa (approximately 1 atm).
- (B) INCLUSIONS.—The term “mercury vapor lamp” includes clear, phosphor-coated, and self-ballasted screw base lamps described in subparagraph (A).
- (48) MERCURY VAPOR LAMP BALLAST.—The term “mercury vapor lamp ballast” means a device that is designed and marketed to start and operate mercury vapor lamps intended for general illumination by providing the necessary voltage and current.
- (49) The term “ceiling fan” means a nonportable device that is suspended from a ceiling for circulating air via the rotation of fan blades.
- (50) The term “ceiling fan light kit” means equipment designed to provide light from a ceiling fan that can be—
- (A) integral, such that the equipment is attached to the ceiling fan prior to the time of retail sale; or
  - (B) attachable, such that at the time of retail sale the equipment is not physically attached to the ceiling fan, but may be included inside the ceiling fan at the time of sale or sold separately for subsequent attachment to the fan.
- (51) The term “medium screw base” means an Edison screw base identified with the prefix E-26 in the “American National Standard for Electric Lamp Bases”, ANSI/IEC C81.61-2003, published by the American National Standards Institute.
- (52) DETACHABLE BATTERY.—The term “detachable battery” means a battery that is—
- (A) contained in a separate enclosure from the product; and
  - (B) intended to be removed or disconnected from the product for recharging.
- (53) SPECIALTY APPLICATION MERCURY VAPOR LAMP BALLAST.—The term “specialty application mercury vapor lamp ballast” means a mercury vapor lamp ballast that—
- (A) is designed and marketed for operation of mercury vapor lamps used in quality inspection, industrial processing, or scientific use, including fluorescent microscopy and ultraviolet curing; and
  - (B) in the case of a specialty application mercury vapor lamp ballast, the label of which—
    - (i) provides that the specialty application mercury vapor lamp ballast is “For specialty applications only, not for general illumination”; and
    - (ii) specifies the specific applications for which the ballast is designed.
- (54) BPAR INCANDESCENT REFLECTOR LAMP.—The term “BPAR incandescent reflector lamp” means a reflector lamp as shown in figure C78.21-278 on page 32 of ANSI C78.21-2003.
- (55) BR INCANDESCENT REFLECTOR LAMP; BR30; BR40.—
- (A) BR INCANDESCENT REFLECTOR LAMP.—The term “BR incandescent reflector lamp” means a reflector lamp that has—
- (i) a bulged section below the major diameter of the bulb and above the approximate baseline of the bulb, as shown in figure 1 (RB) on page 7 of ANSI C79.1-1994, incorporated by reference in section 430.22 of title 10, Code of Federal Regulations (as in effect on December 19, 2007); and
  - (ii) a finished size and shape shown in ANSI C78.21-1989, including the referenced reflective characteristics in part 7 of ANSI C78.21-1989, incorporated by reference in section 430.22 of title 10, Code of Federal Regulations (as in effect on December 19, 2007).
- (B) BR30.—The term “BR30” means a BR incandescent reflector lamp with a diameter of 30/8ths of an inch.
- (C) BR40.—The term “BR40” means a BR incandescent reflector lamp with a diameter of 40/8ths of an inch.
- (56) ER INCANDESCENT REFLECTOR LAMP; ER30; ER40.—
- (A) ER INCANDESCENT REFLECTOR LAMP.—The term “ER incandescent reflector lamp” means a reflector lamp that has—
- (i) an elliptical section below the major diameter of the bulb and above the approximate baseline of the bulb, as shown in figure 1 (RE) on page 7 of ANSI C79.1-1994, incorporated by reference in section 430.22 of title 10, Code of Federal Regulations (as in effect on December 19, 2007); and
  - (ii) a finished size and shape shown in ANSI C78.21-1989, incorporated by reference in section 430.22 of title 10, Code of Federal Regulations (as in effect on December 19, 2007).
- (B) ER30.—The term “ER30” means an ER incandescent reflector lamp with a diameter of 30/8ths of an inch.
- (C) ER40.—The term “ER40” means an ER incandescent reflector lamp with a diameter of 40/8ths of an inch.



(57) R20 INCANDESCENT REFLECTOR LAMP.—The term “R20 incandescent reflector lamp” means a reflector lamp that has a face diameter of approximately 2.5 inches, as shown in figure 1(R) on page 7 of ANSI C79.1-1994.

(58) BALLAST.—The term “ballast” means a device used with an electric discharge lamp to obtain necessary circuit conditions (voltage, current, and waveform) for starting and operating.

(59) BALLAST EFFICIENCY.—

(A) IN GENERAL.—The term “ballast efficiency” means, in the case of a high intensity discharge fixture, the efficiency of a lamp and ballast combination, expressed as a percentage, and calculated in accordance with the following formula:  $\text{Efficiency} = P_{\text{out}}/P_{\text{in}}$ .

(B) EFFICIENCY FORMULA.—For the purpose of subparagraph (A)—

(i)  $P_{\text{out}}$  shall equal the measured operating lamp wattage;

(ii)  $P_{\text{in}}$  shall equal the measured operating input wattage;

(iii) the lamp, and the capacitor when the capacitor is provided, shall constitute a nominal system in accordance with the ANSI Standard C78.43-2004;

(iv) for ballasts with a frequency of 60 Hz,  $P_{\text{in}}$  and  $P_{\text{out}}$  shall be measured after lamps have been stabilized according to section 4.4 of ANSI Standard C82.6-2005 using a wattmeter with accuracy specified in section 4.5 of ANSI Standard C82.6-2005; and

(v) for ballasts with a frequency greater than 60 Hz,  $P_{\text{in}}$  and  $P_{\text{out}}$  shall have a basic accuracy of +/-0.5 percent at the higher of—

(I) 3 times the output operating frequency of the ballast; or

(II) 2 kHz for ballast with a frequency greater than 60 Hz.

(C) MODIFICATION.—The Secretary may, by rule, modify the definition of “ballast efficiency” if the Secretary determines that the modification is necessary or appropriate to carry out the purposes of this chapter.

(60) ELECTRONIC BALLAST.—The term “electronic ballast” means a device that uses semiconductors as the primary means to control lamp starting and operation.

(61) GENERAL LIGHTING APPLICATION.—The term “general lighting application” means lighting that provides an interior or exterior area with overall illumination.

(62) METAL HALIDE BALLAST.—The term “metal halide ballast” means a ballast used to start and operate metal halide lamps.

(63) METAL HALIDE LAMP.—The term “metal halide lamp” means a high intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.

(64) METAL HALIDE LAMP FIXTURE.—The term “metal halide lamp fixture” means a light fixture for general lighting application designed to be operated with a metal halide lamp and a ballast for a metal halide lamp.

(65) PROBE-START METAL HALIDE BALLAST.—The term “probe-start metal halide ballast” means a ballast that—

(A) starts a probe-start metal halide lamp that contains a third starting electrode (probe) in the arc tube; and

(B) does not generally contain an igniter but instead starts lamps with high ballast open circuit voltage.

(66) PULSE-START METAL HALIDE BALLAST.—

(A) IN GENERAL.—The term “pulse-start metal halide ballast” means an electronic or electromagnetic ballast that starts a pulse-start metal halide lamp with high voltage pulses.

(B) STARTING PROCESS.—For the purpose of subparagraph (A)—

(i) lamps shall be started by first providing a high voltage pulse for ionization of the gas to produce a glow discharge; and

(ii) to complete the starting process, power shall be provided by the ballast to sustain the discharge through the glow-to-arc transition.

(Pub. L. 94-163, title III, §321, Dec. 22, 1975, 89 Stat. 917; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 100-12, §2, Mar. 17, 1987, 101 Stat. 103; Pub. L. 100-357, §2(a), June 28, 1988, 102 Stat. 671; Pub. L. 102-486, title I, §123(b), Oct. 24, 1992, 106 Stat. 2817; Pub. L. 105-388, §5(a)(2), Nov. 13, 1998, 112 Stat. 3478; Pub. L. 109-58, title I, §135(a), Aug. 8, 2005, 119 Stat. 624; Pub. L. 110-140, title III, §§301(a), 316(a)(1), (b), (c)(1), 321(a)(1), 322(a), 324(a), Dec. 19, 2007, 121 Stat. 1549, 1572, 1573, 1587, 1591.)

#### REFERENCES IN TEXT

This chapter, referred to in pars. (3) and (59)(C), was in the original “this Act”, meaning Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

Paragraph (19) of section 6292(a) of this title, referred to in par. (6)(B), was redesignated (20) and a new par. (19) was added by Pub. L. 110-140, title III, §324(b), Dec. 19, 2007, 121 Stat. 1593.

#### AMENDMENTS

2007—Par. (29)(D)(ii). Pub. L. 110-140, §316(a)(1), made technical correction to directory language of Pub. L. 109-58, §135(a)(1)(A)(ii). See 2005 Amendment note below.

Par. (30)(B)(viii). Pub. L. 110-140, §316(b), substituted “87” for “82”.

Par. (30)(C)(ii). Pub. L. 110-140, §322(a)(1), substituted “ER, BR, BPAR, or similar bulb shapes” for “or similar bulb shapes (excluding ER or BR)”, “2.25 inches” for “2.75 inches”, and “has a rated wattage that is 40 watts or higher” for “is either—

“(I) a low(er) wattage reflector lamp which has a rated wattage between 40 and 205 watts; or

“(II) a high(er) wattage reflector lamp which has a rated wattage above 205 watts.”

Par. (30)(D). Pub. L. 110-140, §321(a)(1)(A), added subpar. (D) and struck out former subpar. (D) which defined “general service incandescent lamp”.

Par. (30)(T) to (EE). Pub. L. 110-140, §321(a)(1)(B), added subpars. (T) to (EE).

Par. (36). Pub. L. 110-140, §301(a)(1), inserted par. heading, designated existing provisions as subpar. (A), inserted subpar. heading, and added subpars. (B) to (D).

Pars. (46) to (48). Pub. L. 110-140, §316(c)(1)(A), added pars. (46) to (48) and struck out former pars. (46) to (48),

which defined “high intensity discharge lamp”, “mercury vapor lamp”, and “mercury vapor lamp ballast”, respectively.

Par. (52). Pub. L. 110-140, §301(a)(2), added par. (52).

Par. (53). Pub. L. 110-140, §316(c)(1)(B), added par. (53).

Pars. (54) to (57). Pub. L. 110-140, §322(a)(2), added pars. (54) to (57).

Pars. (58) to (66). Pub. L. 110-140, §324(a), added pars. (58) to (66).

2005—Par. (29)(D)(i). Pub. L. 109-58, §135(a)(1)(A)(i), substituted “C78.81-2003 (Data Sheet 7881-ANSI-1010-1)” for “C78.1-1978(R1984)”.

Par. (29)(D)(ii). Pub. L. 109-58, §135(a)(1)(A)(ii), as amended by Pub. L. 110-140, §316(a)(1), substituted “C78.81-2003 (Data Sheet 7881-ANSI-3007-1)” for “C78.3-1978(R1984)”.

Par. (29)(D)(iii). Pub. L. 109-58, §135(a)(1)(A)(iii), substituted “C78.81-2003 (Data Sheet 7881-ANSI-1019-1)” for “C78.1-1978(R1984)”.

Par. (29)(M) to (P). Pub. L. 109-58, §135(a)(1)(B), added subpars. (M) to (P).

Par. (30)(S). Pub. L. 109-58, §135(a)(2), designated existing provisions as cl. (i) and added cl. (ii).

Pars. (32) to (51). Pub. L. 109-58, §135(a)(3), added pars. (32) to (51).

1998—Par. (1). Pub. L. 105-388 substituted “section 32901(a)(3) of title 49” for “section 501(1) of the Motor Vehicle Information and Cost Savings Act” and struck out second period at end.

1992—Pub. L. 102-486, §123(b)(1), in introductory provisions, struck out “(a)” before “For purposes”.

Par. (1). Pub. L. 102-486, §123(b)(2)(B), which directed amendment of par. (1)(B) by substituting “ballasts, general service fluorescent lamps, incandescent reflector lamps, showerheads, faucets, water closets, and urinals” for “ballasts”, was executed by making amendment in closing provisions of par. (1), to reflect the probable intent of Congress.

Par. (1)(A). Pub. L. 102-486, §123(b)(2)(A), inserted “or, with respect to showerheads, faucets, water closets, and urinals, water” after “energy”.

Par. (6). Pub. L. 102-486, §123(b)(3)(B)(ii), which directed amendment of par. (6)(B) by substituting “6295(r)” for “6295(o)”, was executed by making amendment in closing provisions of par. (6), to reflect the probable intent of Congress.

Par. (6)(A). Pub. L. 102-486, §123(b)(3)(A), inserted “, or, in the case of showerheads, faucets, water closets, and urinals, water use,” after “energy use”.

Par. (6)(B). Pub. L. 102-486, §123(b)(3)(B)(i), substituted “(15), (16), (17), and (19)” for “and (14)”.

Par. (7). Pub. L. 102-486, §123(b)(4), inserted “, and in the case of showerheads, faucets, water closets, and urinals, the aggregate retail cost of water and wastewater treatment services likely to be incurred annually,” after “to be consumed annually”.

Pars. (30), (31). Pub. L. 102-486, §123(b)(5), added pars. (30) and (31).

1988—Subsec. (a)(1). Pub. L. 100-357, §2(a)(2), inserted before period at end “, except that such term includes fluorescent lamp ballasts distributed in commerce for personal or commercial use or consumption.”

Subsec. (a)(6)(B). Pub. L. 100-357, §2(a)(3), substituted “(14)” for “(13)”.

Subsec. (a)(29). Pub. L. 100-357, §2(a)(1), added par. (29).

1987—Subsec. (a)(6). Pub. L. 100-12, §2(a), amended par. (6) generally. Prior to amendment, par. (6) read as follows: “The term ‘energy efficiency standard’ means a performance standard—

“(A) which prescribes a minimum level of energy efficiency for a covered product, determined in accordance with test procedures prescribed under section 6293 of this title, and

“(B) which includes any other requirements which the Secretary may prescribe under section 6295(c) of this title.”

Subsec. (a)(19) to (28). Pub. L. 100-12, §2(b), added pars. (19) to (28).

1978—Subsec. (a)(3), (6)(B), (9). Pub. L. 95-619 substituted “Secretary” for “Administrator”, meaning

Administrator of the Federal Energy Administration, wherever appearing.

#### EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-140, title III, §316(a)(2), Dec. 19, 2007, 121 Stat. 1572, provided that: “The amendment made by paragraph (1) [amending this section] takes effect on August 8, 2005.”

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

## § 6292. Coverage

### (a) In general

The following consumer products, excluding those consumer products designed solely for use in recreational vehicles and other mobile equipment, are covered products:

(1) Refrigerators, refrigerator-freezers, and freezers which can be operated by alternating current electricity, excluding—

(A) any type designed to be used without doors; and

(B) any type which does not include a compressor and condenser unit as an integral part of the cabinet assembly.

(2) Room air conditioners.

(3) Central air conditioners and central air conditioning heat pumps.

(4) Water heaters.

(5) Furnaces.

(6) Dishwashers.

(7) Clothes washers.

(8) Clothes dryers.

(9) Direct heating equipment.

(10) Kitchen ranges and ovens.

(11) Pool heaters.

(12) Television sets.

(13) Fluorescent lamp ballasts.

(14) General service fluorescent lamps, general service incandescent lamps, and incandescent reflector lamps.

(15) Showerheads, except safety shower showerheads.

(16) Faucets.

(17) Water closets.

(18) Urinals.

(19) Metal halide lamp fixtures.

(20) Any other type of consumer product which the Secretary classifies as a covered product under subsection (b) of this section.

### (b) Special classification of consumer product

(1) The Secretary may classify a type of consumer product as a covered product if he determines that—

(A) classifying products of such type as covered products is necessary or appropriate to carry out the purposes of this chapter, and

(B) average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (or its Btu equivalent) per year.

(2) For purposes of this subsection:

(A) The term “average annual per-household energy use with respect to a type of product” means the estimated aggregate annual energy use (in kilowatt-hours or the Btu equivalent) of consumer products of such type which are used by households in the United States, di-

vided by the number of such households which use products of such type.

(B) The Btu equivalent of one kilowatt-hour is 3,412 British thermal units.

(C) The term “household” shall be defined under rules of the Secretary.

(Pub. L. 94-163, title III, §322, Dec. 22, 1975, 89 Stat. 918; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 100-12, §§3, 11(b)(1), Mar. 17, 1987, 101 Stat. 105, 125; Pub. L. 100-357, §2(b), June 28, 1988, 102 Stat. 672; Pub. L. 102-486, title I, §123(c), Oct. 24, 1992, 106 Stat. 2821; Pub. L. 105-388, §5(a)(3), Nov. 13, 1998, 112 Stat. 3478; Pub. L. 110-140, title III, §§321(a)(2), 324(b), Dec. 19, 2007, 121 Stat. 1577, 1593.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1)(A), was in the original “this Act”, meaning Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, as amended, known as the Energy Policy and Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

#### AMENDMENTS

2007—Subsec. (a)(14). Pub. L. 110-140, §321(a)(2), inserted “, general service incandescent lamps,” after “fluorescent lamps”.

Subsec. (a)(19), (20). Pub. L. 110-140, §324(b), added par. (19) and redesignated former par. (19) as (20).

1998—Subsec. (b)(2)(A). Pub. L. 105-388 inserted closing quotation marks after “type of product”.

1992—Subsec. (a)(14) to (19). Pub. L. 102-486 added pars. (14) to (18) and redesignated former par. (14) as (19).

1988—Subsec. (a)(13), (14). Pub. L. 100-357 added par. (13) and redesignated former par. (13) as (14).

1987—Subsec. (a). Pub. L. 100-12, §3, inserted heading and amended text generally. Prior to amendment, text read as follows: “A consumer product is a covered product if it is one of the following types (or is designed to perform a function which is the principal function of any of the following types):

“(1) Refrigerators and refrigerator-freezers.

“(2) Freezers.

“(3) Dishwashers.

“(4) Clothes dryers.

“(5) Water heaters.

“(6) Room air conditioners.

“(7) Home heating equipment, not including furnaces.

“(8) Television sets.

“(9) Kitchen ranges and ovens.

“(10) Clothes washers.

“(11) Humidifiers and dehumidifiers.

“(12) Central air conditioners.

“(13) Furnaces.

“(14) Any other type of consumer product which the Secretary classifies as a covered product under subsection (b) of this section.”

Subsec. (b). Pub. L. 100-12, §11(b)(1), inserted heading. 1978—Subsecs. (a)(14), (b)(1), (2)(C). Pub. L. 95-619 substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration, wherever appearing.

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

#### ENERGY EFFICIENCY LABELING FOR WINDOWS AND WINDOW SYSTEMS

Section 121 of Pub. L. 102-486 provided that:

“(a) IN GENERAL.—(1) The Secretary shall, after consulting with the National Fenestration Rating Council,

industry representatives, and other appropriate organizations, provide financial assistance to support a voluntary national window rating program that will develop energy ratings and labels for windows and window systems.

“(2) Such rating program shall include—

“(A) specifications for testing procedures and labels that will enable window buyers to make more informed purchasing decisions about the energy efficiency of windows and window systems; and

“(B) information (which may be disseminated through catalogs, trade publications, labels, or other mechanisms) that will allow window buyers to assess the energy consumption and potential cost savings of alternative window products.

“(3) Such rating program shall be developed by the National Fenestration Rating Council according to commonly accepted procedures for the development of national testing procedures and labeling programs.

“(b) MONITORING.—The Secretary shall monitor and evaluate the efforts of the National Fenestration Rating Council and, not later than one year after the date of the enactment of this Act [Oct. 24, 1992], make a determination as to whether the program developed by the Council is consistent with the objectives of subsection (a).

“(c) ALTERNATIVE SYSTEM.—(1) If the Secretary makes a determination under subsection (b) that a voluntary national window rating program consistent with the objectives of subsection (a) has not been developed, the Secretary shall, after consultation with the National Institute of Standards and Technology, develop, not later than two years after such determination, test procedures under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) for windows and window systems.

“(2) Not later than one year after the Secretary develops test procedures under paragraph (1), the Federal Trade Commission (hereafter in this section referred to as the ‘Commission’) shall prescribe labeling rules under section 324 of such Act (42 U.S.C. 6294) for those windows and window systems for which the Secretary has prescribed test procedures under paragraph (1) except that, with respect to any type of window or window system (or class thereof), the Secretary may determine that such labeling is not technologically feasible or economically justified or is not likely to assist consumers in making purchasing decisions.

“(3) For purposes of sections 323, 324, and 327 of such Act [42 U.S.C. 6293, 6294, 6297], each product for which the Secretary has established test procedures or labeling rules pursuant to this subsection shall be considered a new covered product under section 322 of such Act (42 U.S.C. 6292) to the extent necessary to carry out this subsection.

“(4) For purposes of section 327(a) of such Act, the term ‘this part’ includes this subsection to the extent necessary to carry out this subsection.”

#### ENERGY EFFICIENCY INFORMATION FOR COMMERCIAL OFFICE EQUIPMENT

Section 125 of Pub. L. 102-486 provided that:

“(a) IN GENERAL.—(1) The Secretary shall, after consulting with the Computer and Business Equipment Manufacturers Association and other interested organizations, provide financial and technical assistance to support a voluntary national testing and information program for those types of commercial office equipment that are widely used and for which there is a potential for significant energy savings as a result of such program.

“(2) Such program shall—

“(A) consistent with the objectives of paragraph (1), determine the commercial office equipment to be covered under such program;

“(B) include specifications for testing procedures that will enable purchasers of such commercial office equipment to make more informed decisions about the energy efficiency and costs of alternative products; and

“(C) include information, which may be disseminated through catalogs, trade publications, labels, or other mechanisms, that will allow consumers to assess the energy consumption and potential cost savings of alternative products.

“(3) Such program shall be developed by an appropriate organization (composed of interested parties) according to commonly accepted procedures for the development of national testing procedure and labeling programs.

“(b) MONITORING.—The Secretary shall monitor and evaluate the efforts to develop the program described in subsection (a) and, not later than three years after the date of the enactment of this Act [Oct. 24, 1992], shall make a determination as to whether such program is consistent with the objectives of subsection (a).

“(c) ALTERNATIVE SYSTEM.—(1) If the Secretary makes a determination under subsection (b) that a voluntary national testing and information program for commercial office equipment consistent with the objectives of subsection (a) has not been developed, the Secretary shall, after consultation with the National Institute of Standards and Technology, develop, not later than two years after such determination, test procedures under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) for such commercial office equipment.

“(2) Not later than one year after the Secretary develops test procedures under paragraph (1), the Federal Trade Commission (hereafter in this section referred to as the ‘Commission’) shall prescribe labeling rules under section 324 of such Act (42 U.S.C. 6294) for commercial office equipment for which the Secretary has prescribed test procedures under paragraph (1) except that, with respect to any type of commercial office equipment (or class thereof), the Secretary may determine that such labeling is not technologically feasible or economically justified or is not likely to assist consumers in making purchasing decisions.

“(3) For purposes of sections 323, 324, and 327 of such Act [42 U.S.C. 6293, 6294, 6297], each product for which the Secretary has established test procedures or labeling rules pursuant to this subsection shall be considered a new covered product under section 322 of such Act (42 U.S.C. 6292) to the extent necessary to carry out this subsection.

“(4) For purposes of section 327(a) of such Act, the term ‘this part’ includes this subsection to the extent necessary to carry out this subsection.”

#### ENERGY EFFICIENCY INFORMATION FOR LUMINAIRES

Section 126 of Pub. L. 102-486 provided that:

“(a) IN GENERAL.—(1) The Secretary shall, after consulting with the National Electric Manufacturers Association, the American Lighting Association, and other interested organizations, provide financial and technical assistance to support a voluntary national testing and information program for those types of luminaires that are widely used and for which there is a potential for significant energy savings as a result of such program.

“(2) Such program shall—

“(A) consistent with the objectives of paragraph (1), determine the luminaires to be covered under such program;

“(B) include specifications for testing procedures that will enable purchasers of such luminaires to make more informed decisions about the energy efficiency and costs of alternative products; and

“(C) include information, which may be disseminated through catalogs, trade publications, labels, or other mechanisms, that will allow consumers to assess the energy consumption and potential cost savings of alternative products.

“(3) Such program shall be developed by an appropriate organization (composed of interested parties) according to commonly accepted procedures for the development of national testing procedures and labeling programs.

“(b) MONITORING.—The Secretary shall monitor and evaluate the efforts to develop the program described

in subsection (a) and, not later than three years after the date of the enactment of this Act [Oct. 24, 1992], shall make a determination as to whether the program developed is consistent with the objectives of subsection (a).

“(c) ALTERNATIVE SYSTEM.—(1) If the Secretary makes a determination under subsection (b) that a voluntary national testing and information program for luminaires consistent with the objectives of subsection (a) has not been developed, the Secretary shall, after consultation with the National Institute of Standards and Technology, develop, not later than two years after such determination, test procedures under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) for such luminaires.

“(2) Not later than one year after the Secretary develops test procedures under paragraph (1), the Federal Trade Commission (hereafter in this section referred to as the ‘Commission’) shall prescribe labeling rules under section 324 of such Act (42 U.S.C. 6294) for those luminaires for which the Secretary has prescribed test procedures under paragraph (1) except that, with respect to any type of luminaire (or class thereof), the Secretary may determine that such labeling is not technologically feasible or economically justified or is not likely to assist consumers in making purchasing decisions.

“(3) For purposes of sections 323, 324, and 327 of such Act [42 U.S.C. 6293, 6294, 6297], each product for which the Secretary has established test procedures or labeling rules pursuant to this subsection shall be considered a new covered product under section 322 of such Act (42 U.S.C. 6292) to the extent necessary to carry out this subsection.

“(4) For purposes of section 327(a) of such Act, the term ‘this part’ includes this subsection to the extent necessary to carry out this subsection.”

#### REPORT ON POTENTIAL OF COOPERATIVE ADVANCED APPLIANCE DEVELOPMENT

Section 127 of Pub. L. 102-486 provided that:

“(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act [Oct. 24, 1992], the Secretary shall, in consultation with the Administrator of the Environmental Protection Agency, utilities, and appliance manufacturers, prepare and submit to the Congress, a report on the potential for the development and commercialization of appliances which are substantially more efficient than required by Federal or State law.

“(b) IDENTIFICATION OF HIGH-EFFICIENCY APPLIANCES.—The report submitted under subsection (a) shall identify candidate high-efficiency appliances which meet the following criteria:

“(1) The potential exists for substantial improvement in the appliance’s energy efficiency, beyond the minimum established in Federal and State law.

“(2) There is the potential for significant energy savings at the national or regional level.

“(3) Such appliances are likely to be cost-effective for consumers.

“(4) Electric, water, or gas utilities are prepared to support and promote the commercialization of such appliances.

“(5) Manufacturers are unlikely to undertake development and commercialization of such appliances on their own, or development and production would be substantially accelerated by support to manufacturers.

“(c) RECOMMENDATIONS AND PROPOSALS.—The report submitted under subsection (a) shall also—

“(1) describe the general actions the Secretary or the Administrator of the Environmental Protection Agency could take to coordinate and assist utilities and appliance manufacturers in developing and commercializing highly efficient appliances;

“(2) describe specific proposals for Department of Energy or Environmental Protection Agency assistance to utilities and appliance manufacturers to promote the development and commercialization of highly efficient appliances;

“(3) identify methods by which Federal purchase of highly efficient appliances could assist in the development and commercialization of such appliances; and

“(4) identify the funding levels needed to develop and implement a Federal program to assist in the development and commercialization of highly efficient appliances.”

EVALUATION OF UTILITY EARLY REPLACEMENT PROGRAMS FOR APPLIANCES

Section 128 of Pub. L. 102-486 provided that: “Within 18 months after the date of the enactment of this Act [Oct. 24, 1992], the Secretary, in consultation with the Administrator of the Environmental Protection Agency, utilities, and appliance manufacturers, shall evaluate and report to the Congress on the energy savings and environmental benefits of programs which are directed to the early replacement of older, less efficient appliances presently in use by consumers with existing products which are more efficient than required by Federal law. For the purposes of this section, the term ‘appliance’ means those consumer products specified in section 322(a) [42 U.S.C. 6292(a)].”

**§ 6293. Test procedures**

**(a) General rule**

All test procedures and related determinations prescribed or made by the Secretary with respect to any covered product (or class thereof) which are in effect on March 17, 1987, shall remain in effect until the Secretary amends such test procedures and related determinations under subsection (b) of this section.

**(b) Amended and new procedures**

(1) TEST PROCEDURES.—

(A) AMENDMENT.—At least once every 7 years, the Secretary shall review test procedures for all covered products and—

(i) amend test procedures with respect to any covered product, if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of paragraph (3); or

(ii) publish notice in the Federal Register of any determination not to amend a test procedure.

(B) The Secretary may, in accordance with the requirements of this subsection, prescribe test procedures for any consumer product classified as a covered product under section 6292(b) of this title.

(C) The Secretary shall direct the National Institute of Standards and Technology to assist in developing new or amended test procedures.

(2) If the Secretary determines, on his own behalf or in response to a petition by any interested person, that a test procedure should be prescribed or amended, the Secretary shall promptly publish in the Federal Register proposed test procedures and afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such procedures. The comment period shall not be less than 60 days and may be extended for good cause shown to not more than 270 days. In prescribing or amending a test procedure, the Secretary shall take into account such information as the Secretary determines relevant to such procedure, including technological develop-

ments relating to energy use or energy efficiency of the type (or class) of covered products involved.

(3) Any test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use, water use (in the case of showerheads, faucets, water closets and urinals), or estimated annual operating cost of a covered product during a representative average use cycle or period of use, as determined by the Secretary, and shall not be unduly burdensome to conduct.

(4) If the test procedure is a procedure for determining estimated annual operating costs, such procedure shall provide that such costs shall be calculated from measurements of energy use or, in the case of showerheads, faucets, water closets, or urinals, water use in a representative average use cycle or period of use, as determined by the Secretary, and from representative average unit costs of the energy needed to operate such product during such cycle, or in the case of showerheads, faucets, water closets, or urinals, representative average unit costs of water and wastewater treatment service resulting from the operation of such products during such cycle. The Secretary shall provide information to manufacturers with respect to representative average unit costs of energy, water, and wastewater treatment.

(5) With respect to fluorescent lamp ballasts manufactured on or after January 1, 1990, and to which standards are applicable under section 6295 of this title, the Secretary shall prescribe test procedures that are in accord with ANSI standard C82.2-1984 or other test procedures determined appropriate by the Secretary.

(6) With respect to fluorescent lamps and incandescent reflector lamps to which standards are applicable under subsection (i) of section 6295 of this title, the Secretary shall prescribe test procedures, to be carried out by accredited test laboratories, that take into consideration the applicable IES or ANSI standard.

(7)(A) Test procedures for showerheads and faucets to which standards are applicable under subsection (j) of section 6295 of this title shall be the test procedures specified in ASME A112.18.1M-1989 for such products.

(B) If the test procedure requirements of ASME A112.18.1M-1989 are revised at any time and approved by ANSI, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such revised ASME/ANSI requirements unless the Secretary determines, by rule, that to do so would not meet the requirements of paragraph (3).

(8)(A) Test procedures for water closets and urinals to which standards are applicable under subsection (k) of section 6295 of this title shall be the test procedures specified in ASME A112.19.6-1990 for such products.

(B) If the test procedure requirements of ASME A112.19.6-1990 are revised at any time and approved by ANSI, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such revised ASME/ANSI requirements unless the Secretary determines, by rule, that to do so would not meet the requirements of paragraph (3).

(9) Test procedures for illuminated exit signs shall be based on the test method used under version 2.0 of the Energy Star program of the Environmental Protection Agency for illuminated exit signs.

(10)(A) Test procedures for distribution transformers and low voltage dry-type distribution transformers shall be based on the “Standard Test Method for Measuring the Energy Consumption of Distribution Transformers” prescribed by the National Electrical Manufacturers Association (NEMA TP 2-1998).

(B) The Secretary may review and revise the test procedures established under subparagraph (A).

(C) For purposes of section 6317(a) of this title, the test procedures established under subparagraph (A) shall be considered to be the testing requirements prescribed by the Secretary under section 6317(a)(1) of this title for distribution transformers for which the Secretary makes a determination that energy conservation standards would—

- (i) be technologically feasible and economically justified; and
- (ii) result in significant energy savings.

(11) Test procedures for traffic signal modules and pedestrian modules shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for traffic signal modules, as in effect on August 8, 2005.

(12)(A) Test procedures for medium base compact fluorescent lamps shall be based on the test methods for compact fluorescent lamps used under the August 9, 2001, version of the Energy Star program of the Environmental Protection Agency and the Department of Energy.

(B) Except as provided in subparagraph (C), medium base compact fluorescent lamps shall meet all test requirements for regulated parameters of section 6295(cc) of this title.

(C) Notwithstanding subparagraph (B), if manufacturers document engineering predictions and analysis that support expected attainment of lumen maintenance at 40 percent rated life and lamp lifetime, medium base compact fluorescent lamps may be marketed before completion of the testing of lamp life and lumen maintenance at 40 percent of rated life.

(13) Test procedures for dehumidifiers shall be based on the test criteria used under the Energy Star Program Requirements for Dehumidifiers developed by the Environmental Protection Agency, as in effect on August 8, 2005, unless revised by the Secretary pursuant to this section.

(14) The test procedure for measuring flow rate for commercial prerinse spray valves shall be based on American Society for Testing and Materials Standard F2324, entitled “Standard Test Method for Pre-Rinse Spray Valves”.

(15) The test procedure for refrigerated bottled or canned beverage vending machines shall be based on American National Standards Institute/American Society of Heating, Refrigerating and Air-Conditioning Engineers Standard 32.1-2004, entitled “Methods of Testing for Rating Vending Machines for Bottled, Canned or Other Sealed Beverages”.

(16)(A)(i) Test procedures for ceiling fans shall be based on the “Energy Star Testing Facility

Guidance Manual: Building a Testing Facility and Performing the Solid State Test Method for ENERGY STAR Qualified Ceiling Fans, Version 1.1” published by the Environmental Protection Agency.

(ii) Test procedures for ceiling fan light kits shall be based on the test procedures referenced in the Energy Star specifications for Residential Light Fixtures and Compact Fluorescent Light Bulbs, as in effect on August 8, 2005.

(B) The Secretary may review and revise the test procedures established under subparagraph (A).

(17) CLASS A EXTERNAL POWER SUPPLIES.—Test procedures for class A external power supplies shall be based on the “Test Method for Calculating the Energy Efficiency of Single-Voltage External AC-DC and AC-AC Power Supplies” published by the Environmental Protection Agency on August 11, 2004, except that the test voltage specified in section 4(d) of that test method shall be only 115 volts, 60 Hz.

(18) METAL HALIDE LAMP BALLASTS.—Test procedures for metal halide lamp ballasts shall be based on ANSI Standard C82.6-2005, entitled “Ballasts for High Intensity Discharge Lamps—Method of Measurement”.

**(c) Restriction on certain representations**

(1) No manufacturer, distributor, retailer, or private labeler may make any representation—

- (A) in writing (including a representation on a label); or
- (B) in any broadcast advertisement,

with respect to the energy use or efficiency or, in the case of showerheads, faucets, water closets, and urinals, water use of a covered product to which a test procedure is applicable under subsection (a) of this section or the cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

(2) Effective 180 days after an amended or new test procedure applicable to a covered product is prescribed or established under subsection (b) of this section, no manufacturer, distributor, retailer, or private labeler may make any representation—

- (A) in writing (including a representation on a label); or
- (B) in any broadcast advertisement,

with respect to energy use or efficiency or, in the case of showerheads, faucets, water closets, and urinals, water use of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such amended or new test procedures and such representation fairly discloses the results of such testing.

(3) On the petition of any manufacturer, distributor, retailer, or private labeler, filed not later than the 60th day before the expiration of the period involved, the 180-day period referred to in paragraph (2) may be extended by the Secretary with respect to the petitioner (but in no event for more than an additional 180 days) if the Secretary determines that the requirements of paragraph (2) would impose an undue hardship on such petitioner.

**(d) Case in which test procedure is not required**

(1) The Secretary is not required to publish and prescribe test procedures for a covered product (or class thereof) if the Secretary determines, by rule, that test procedures cannot be developed which meet the requirements of subsection (b)(3) of this section and publishes such determination in the Federal Register, together with the reasons therefor.

(2) For purposes of section 6297 of this title, a determination under paragraph (1) with respect to any covered product or class shall have the same effect as would a standard prescribed for a covered product (or class).

**(e) Amendment of standard**

(1) In the case of any amended test procedure which is prescribed pursuant to this section, the Secretary shall determine, in the rulemaking carried out with respect to prescribing such procedure, to what extent, if any, the proposed test procedure would alter the measured energy efficiency, measured energy use, or measured water use of any covered product as determined under the existing test procedure.

(2) If the Secretary determines that the amended test procedure will alter the measured efficiency or measured use, the Secretary shall amend the applicable energy conservation standard during the rulemaking carried out with respect to such test procedure. In determining the amended energy conservation standard, the Secretary shall measure, pursuant to the amended test procedure, the energy efficiency, energy use, or water use of a representative sample of covered products that minimally comply with the existing standard. The average of such energy efficiency, energy use, or water use levels determined under the amended test procedure shall constitute the amended energy conservation standard for the applicable covered products.

(3) Models of covered products in use before the date on which the amended energy conservation standard becomes effective (or revisions of such models that come into use after such date and have the same energy efficiency, energy use, or water use characteristics) that comply with the energy conservation standard applicable to such covered products on the day before such date shall be deemed to comply with the amended energy conservation standard.

(4) The Secretary's authority to amend energy conservation standards under this subsection shall not affect the Secretary's obligation to issue final rules as described in section 6295 of this title.

**(f) Additional consumer and commercial products**

(1) Not later than 2 years after August 8, 2005, the Secretary shall prescribe testing requirements for refrigerated bottled or canned beverage vending machines.

(2) To the maximum extent practicable, the testing requirements prescribed under paragraph (1) shall be based on existing test procedures used in industry.

(Pub. L. 94-163, title III, §323, Dec. 22, 1975, 89 Stat. 919; Pub. L. 95-619, title IV, §§421, 425(a), title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3257,

3265, 3288; Pub. L. 100-12, §4, Mar. 17, 1987, 101 Stat. 105; Pub. L. 100-357, §2(c), June 28, 1988, 102 Stat. 672; Pub. L. 100-418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433; Pub. L. 102-486, title I, §123(d), Oct. 24, 1992, 106 Stat. 2821; Pub. L. 109-58, title I, §135(b), Aug. 8, 2005, 119 Stat. 627; Pub. L. 110-140, title III, §§301(b), 302(a), 324(c), Dec. 19, 2007, 121 Stat. 1550, 1551, 1593.)

## AMENDMENTS

2007—Subsec. (b)(1). Pub. L. 110-140, §302(a), which directed amendment of subsec. (b)(1) by striking “(1)” and all that followed through the “end of the paragraph” and inserting a new par. (1) designation and heading and subpar. (A), was executed by substituting the new par. (1) designation and heading and subpar. (A) for “(1)(A) The Secretary may amend test procedures with respect to any covered product if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of paragraph (3).” to reflect the probable intent of Congress.

Subsec. (b)(17). Pub. L. 110-140, §301(b), added par. (17).

Subsec. (b)(18). Pub. L. 110-140, §324(c), added par. (18).

2005—Subsec. (b)(9) to (16). Pub. L. 109-58, §135(b)(1), added pars. (9) to (16).

Subsec. (f). Pub. L. 109-58, §135(b)(2), added subsec. (f).

1992—Subsec. (b)(3). Pub. L. 102-486, §123(d)(1)(A), inserted “water use (in the case of showerheads, faucets, water closets and urinals),” after “energy use.”

Subsec. (b)(4). Pub. L. 102-486, §123(d)(1)(B), in first sentence inserted “or, in the case of showerheads, faucets, water closets, or urinals, water use” after “energy use” and “, or in the case of showerheads, faucets, water closets, or urinals, representative average unit costs of water and wastewater treatment service resulting from the operation of such products during such cycle” after “such cycle”, and in second sentence inserted “, water, and wastewater treatment” before period at end.

Subsec. (b)(6) to (8). Pub. L. 102-486, §123(d)(1)(C), added pars. (6) to (8).

Subsec. (c)(1). Pub. L. 102-486, §123(d)(2), in closing provisions inserted “or, in the case of showerheads, faucets, water closets, and urinals, water use” after “efficiency”.

Subsec. (c)(2). Pub. L. 102-486, §123(d)(3), in introductory provisions substituted “prescribed or established” for “prescribed”.

Pub. L. 102-486, §123(d)(2), in closing provisions inserted “or, in the case of showerheads, faucets, water closets, and urinals, water use” after “efficiency”.

Subsec. (e)(1) to (3). Pub. L. 102-486, §123(d)(4), substituted “, measured energy use, or measured water use” for “or measured energy use” in par. (1) and “energy efficiency, energy use, or water use” for “energy efficiency or energy use” in two places in par. (2) and once in par. (3).

1988—Subsec. (b)(1)(C). Pub. L. 100-418 substituted “National Institute of Standards and Technology” for “National Bureau of Standards”.

Subsec. (b)(5). Pub. L. 100-357 added par. (5).

1987—Pub. L. 100-12 amended section generally, revising and restating as subsecs. (a) to (e) provisions formerly contained in subsecs. (a) to (c).

1978—Subsec. (a)(1), (2). Pub. L. 95-619, §691(b)(2), substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration, wherever appearing.

Subsec. (a)(3). Pub. L. 95-619, §§425(a), 691(b)(2), struck out “Except as provided in paragraph (6),” before “The Secretary”, struck out provision requiring proposed test procedures to be published not later than June 30, 1976, with certain excepted cases not required to be published before Sept. 30, 1976 and June 30, 1977, and substituted “Secretary” for “Administrator”.

Subsec. (a)(4). Pub. L. 95-619, §§421(a), 691(b)(2), redesignated provisions formerly classified to subpar. (A), as par. (4) and in par. (4), as so redesignated, struck out

“Except as provided in paragraph (6),” before “The Secretary shall”, substituted “Secretary” for “Administrator” in two places, inserted provision requiring the prescription of test procedures not later than Jan. 31, 1978, and struck out subpar. (B) requiring the prescription of test procedures not later than Sept. 30, 1976, with certain excepted cases required to be prescribed not later than Dec. 31, 1976 and Sept. 30 1977.

Subsec. (a)(5). Pub. L. 95-619, §691(b)(2), substituted “Secretary” for “Administrator” wherever appearing.

Subsec. (a)(6). Pub. L. 95-619, §421(b), redesignated existing provisions as subpar. (A) and, in subpar. (A) as so redesignated, substituted “Secretary” for “Administrator”, struck out provisions relating to the authority to delay publication of proposed test procedures, inserted requirement that a determination of a necessary prescription delay be submitted in a report to Congress, inserted specific ninety day time limitation for delayed prescriptions, and added subpar. (B).

Subsec. (a)(7). Pub. L. 95-619, §421(c), added par. (7).

Subsec. (b). Pub. L. 95-619, §691(b)(2), substituted “Secretary” for “Administrator” wherever appearing.

Subsec. (c). Pub. L. 95-619, §421(d), redesignated existing provisions as par. (1), substituted “180 days” for “90 days” and redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

### § 6294. Labeling

#### (a) In general

(1) The Commission shall prescribe labeling rules under this section applicable to all covered products of each of the types specified in paragraphs (1), (2), (4), (6), and (8) through (12) of section 6292(a) of this title, except to the extent that, with respect to any such type (or class thereof), the Commission determines under the second sentence of subsection (b)(5) of this section that labeling in accordance with this section is not technologically or economically feasible.

(2)(A) The Commission shall prescribe labeling rules under this section applicable to all covered products of each of the types specified in paragraphs (3), (5), and (7) of section 6292(a) of this title, except to the extent that with respect to any such type (or class thereof), the Commission determines under the second sentence of subsection (b)(5) of this section that labeling in accordance with this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions.

(B) The Commission shall prescribe labeling rules under this section applicable to the covered product specified in paragraph (13) of section 6292(a) of this title and to which standards are applicable under section 6295 of this title. Such rules shall provide that the labeling of any fluorescent lamp ballast manufactured on or after January 1, 1990, will indicate conspicuously, in a manner prescribed by the Commission under subsection (b) of this section by July 1, 1989, a capital letter “E” printed within a circle on the ballast and on the packaging of the ballast or of the luminaire into which the ballast has been incorporated.

#### (C) METAL HALIDE LAMP FIXTURES.—

(i) IN GENERAL.—The Commission shall issue labeling rules under this section applicable to

the covered product specified in section 6292(a)(19) of this title and to which standards are applicable under section 6295 of this title.

(ii) LABELING.—The rules shall provide that the labeling of any metal halide lamp fixture manufactured on or after the later of January 1, 2009, or the date that is 270 days after December 19, 2007, shall indicate conspicuously, in a manner prescribed by the Commission under subsection (b) by July 1, 2008, a capital letter “E” printed within a circle on the packaging of the fixture, and on the ballast contained in the fixture.

(D)(i) Not later than 18 months after October 24, 1992, the Commission shall prescribe labeling rules under this section applicable to general service fluorescent lamps, medium base compact fluorescent lamps, and general service incandescent lamps. Except as provided in clause (ii), such rules shall provide that the labeling of any general service fluorescent lamp, medium base compact fluorescent lamp, and general service incandescent lamp manufactured after the 12-month period beginning on the date of the publication of such rule shall indicate conspicuously on the packaging of the lamp, in a manner prescribed by the Commission under subsection (b) of this section, such information as the Commission deems necessary to enable consumers to select the most energy efficient lamps which meet their requirements. Labeling information for incandescent lamps shall be based on performance when operated at 120 volts input, regardless of the rated lamp voltage.

(ii) If the Secretary determines that compliance with the standards specified in section 6295(i) of this title for any lamp will result in the discontinuance of the manufacture of such lamp, the Commission may exempt such lamp from the labeling rules prescribed under clause (i).

#### (iii) RULEMAKING TO CONSIDER EFFECTIVENESS OF LAMP LABELING.—

(I) IN GENERAL.—Not later than 1 year after December 19, 2007, the Commission shall initiate a rulemaking to consider—

(aa) the effectiveness of current lamp labeling for power levels or watts, light output or lumens, and lamp lifetime; and

(bb) alternative labeling approaches that will help consumers to understand new high-efficiency lamp products and to base the purchase decisions of the consumers on the most appropriate source that meets the requirements of the consumers for lighting level, light quality, lamp lifetime, and total lifecycle cost.

(II) COMPLETION.—The Commission shall—

(aa) complete the rulemaking not later than the date that is 30 months after December 19, 2007; and

(bb) consider reopening the rulemaking not later than 180 days before the effective dates of the standards for general service incandescent lamps established under section 6295(i)(1)(A) of this title, if the Commission determines that further labeling changes are needed to help consumers understand lamp alternatives.

(E)(i) Not later than one year after October 24, 1992, the Commission shall prescribe labeling



rules under this section for showerheads and faucets to which standards are applicable under subsection (j) of section 6295 of this title. Such rules shall provide that the labeling of any showerhead or faucet manufactured after the 12-month period beginning on the date of the publication of such rule shall be consistent with the marking and labeling requirements of ASME A112.18.1M-1989, except that each showerhead and flow restricting or controlling spout-end device shall bear a permanent legible marking indicating the flow rate, expressed in gallons per minute (gpm) or gallons per cycle (gpc), and the flow rate value shall be the actual flow rate or the maximum flow rate specified by the standards established in subsection (j) of section 6295 of this title.

(ii) If the marking and labeling requirements of ASME A112.18.1M-1989 are revised at any time and approved by ANSI, the Commission shall amend the labeling rules established pursuant to clause (i) to be consistent with such revised ASME/ANSI requirements unless such requirements are inconsistent with the purposes of this chapter or the requirement specified in clause (i) requiring each showerhead and flow restricting or controlling spout-end device to bear a permanent legible marking indicating the flow rate of such product.

(F)(i) Not later than one year after October 24, 1992, the Commission shall prescribe labeling rules under this section for water closets and urinals to which standards are applicable under subsection (k) of section 6295 of this title. Such rules shall provide that the labeling of any water closet or urinal manufactured after the 12-month period beginning on the date of the publication of such rule shall be consistent with the marking and labeling requirements of ASME A112.19.2M-1990, except that each fixture (and flushometer valve associated with such fixture) shall bear a permanent legible marking indicating the water use, expressed in gallons per flush (gpf), and the water use value shall be the actual water use or the maximum water use specified by the standards established in subsection (k) of section 6295 of this title.

(ii) If the marking and labeling requirements of ASME A112.19.2M-1990 are revised at any time and approved by ANSI, the Commission shall amend the labeling rules established pursuant to clause (i) to be consistent with such revised ASME/ANSI requirements unless such requirements are inconsistent with the purposes of this chapter or the requirement specified in clause (i) requiring each fixture and flushometer valve to bear a permanent legible marking indicating the water use of such fixture or flushometer valve.

(iii) Any labeling rules prescribed under this subparagraph before January 1, 1997, shall provide that, with respect to any gravity tank-type white 2-piece toilet which has a water use greater than 1.6 gallons per flush (gpf), any printed matter distributed or displayed in connection with such product (including packaging and point of sale material, catalog material, and print advertising) shall include, in a conspicuous manner, the words "For Commercial Use Only".

(G)(i) Not later than 90 days after August 8, 2005, the Commission shall initiate a rulemaking to consider—

(I) the effectiveness of the consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency; and

(II) changes to the labeling rules (including categorical labeling) that would improve the effectiveness of consumer product labels.

(ii) Not later than 2 years after August 8, 2005, the Commission shall complete the rulemaking initiated under clause (i).

(H)(i) Not later than 18 months after August 8, 2005, the Commission shall issue by rule, in accordance with this section, labeling requirements for the electricity used by ceiling fans to circulate air in a room.

(ii) The rule issued under clause (i) shall apply to products manufactured after the later of—

(I) January 1, 2009; or

(II) the date that is 60 days after the final rule is issued.

(I) LABELING REQUIREMENTS.—

(i) IN GENERAL.—Subject to clauses (ii) through (iv), not later than 18 months after the date of issuance of applicable Department of Energy testing procedures, the Commission, in consultation with the Secretary and the Administrator of the Environmental Protection Agency (acting through the Energy Star program), shall, by regulation, prescribe labeling or other disclosure requirements for the energy use of—

(I) televisions;

(II) personal computers;

(III) cable or satellite set-top boxes;

(IV) stand-alone digital video recorder boxes; and

(V) personal computer monitors.

(ii) ALTERNATE TESTING PROCEDURES.—In the absence of applicable testing procedures described in clause (i) for products described in subclauses (I) through (V) of that clause, the Commission may, by regulation, prescribe labeling or other disclosure requirements for a consumer product category described in clause (i) if the Commission—

(I) identifies adequate non-Department of Energy testing procedures for those products; and

(II) determines that labeling of, or other disclosures relating to, those products is likely to assist consumers in making purchasing decisions.

(iii) DEADLINE AND REQUIREMENTS FOR LABELING.—

(I) DEADLINE.—Not later than 18 months after the date of promulgation of any requirements under clause (i) or (ii), the Commission shall require labeling of, or other disclosure requirements for, electronic products described in clause (i).

(II) REQUIREMENTS.—The requirements prescribed under clause (i) or (ii) may include specific requirements for each electronic product to be labeled with respect to the placement, size, and content of Energy Guide labels.

(iv) DETERMINATION OF FEASIBILITY.—Clause (i) or (ii) shall not apply in any case in which the Commission determines that labeling in accordance with this subsection—

(I) is not technologically or economically feasible; or

(II) is not likely to assist consumers in making purchasing decisions.

(3) The Commission may prescribe a labeling rule under this section applicable to covered products of a type specified in paragraph (19)<sup>1</sup> of section 6292(a) of this title (or a class thereof) if—

(A) the Commission or the Secretary has made a determination with respect to such type (or class thereof) that labeling in accordance with this section will assist purchasers in making purchasing decisions,

(B) the Secretary has prescribed test procedures under section 6293(b)(1)(B) of this title for such type (or class thereof), and

(C) the Commission determines with respect to such type (or class thereof) that application of labeling rules under this section to such type (or class thereof) is economically and technologically feasible.

(4) Any determination under this subsection shall be published in the Federal Register.

(5)(A) For covered products described in subsections (u) through (ff) of section 6295 of this title, after a test procedure has been prescribed under section 6293 of this title, the Secretary or the Commission, as appropriate, may prescribe, by rule, under this section labeling requirements for the products.

(B) In the case of products to which TP-1 standards under section 6295(y) of this title apply, labeling requirements shall be based on the “Standard for the Labeling of Distribution Transformer Efficiency” prescribed by the National Electrical Manufacturers Association (NEMA TP-3) as in effect on August 8, 2005.

(C) In the case of dehumidifiers covered under section 6295(dd) of this title, the Commission shall not require an “Energy Guide” label.

(6) **AUTHORITY TO INCLUDE ADDITIONAL PRODUCT CATEGORIES.**—The Commission may, by regulation, require labeling or other disclosures in accordance with this subsection for any consumer product not specified in this subsection or section 6292 of this title if the Commission determines that labeling for the product is likely to assist consumers in making purchasing decisions.

**(b) Rules in effect; new rules**

(1)(A) Any labeling rule in effect on March 17, 1987, shall remain in effect until amended, by rule, by the Commission.

(B) After March 17, 1987, and not later than 30 days after the date on which a proposed test procedure applicable to a covered product of any of the types specified in paragraphs (1) through (13), and paragraphs (15) through (19)<sup>1</sup> of section 6292(a) of this title (or class thereof) is prescribed under section 6293(b) of this title, the Commission shall publish a proposed labeling rule applicable to such type (or class thereof).

(2) The Commission shall afford interested persons an opportunity to present written or oral data, views, and comments with respect to the proposed labeling rules published under para-

graph (1). The period for such presentations shall not be less than 45 days.

(3) Not earlier than 45 days nor later than 60 days after the date on which test procedures are prescribed under section 6293(b) of this title with respect to covered products of any type (or class thereof) specified in paragraphs (1) through (12) of section 6292(a) of this title, the Commission shall prescribe labeling rules with respect to covered products of such type (or class thereof). Not earlier than 45 days after the date on which test procedures are prescribed under section 6293(b) of this title with respect to covered products of a type specified in paragraph (19)<sup>1</sup> of section 6292(a) of this title, the Commission may prescribe labeling rules with respect to covered products of such type (or class thereof).

(4) A labeling rule prescribed under paragraph (3) shall take effect not later than 3 months after the date of prescription of such rule, except that such rules may take effect not later than 6 months after such date of prescription if the Commission determines that such extension is necessary to allow persons subject to such rules adequate time to come into compliance with such rules.

(5) The Commission may delay the publication of a proposed labeling rule, or the prescription of a labeling rule, beyond the dates specified in paragraph (1) or (3), if it determines that it cannot publish proposed labeling rules or prescribe labeling rules which meet the requirements of this section on or prior to the date specified in the applicable paragraph and publishes such determination in the Federal Register, together with the reasons therefor. In any such case, it shall publish proposed labeling rules or prescribe labeling rules for covered products of such type (or class thereof) as soon as practicable unless it determines (A) that labeling in accordance with this section is not economically or technically feasible, or (B) in the case of a type specified in paragraphs (3), (5), and (7) of section 6292(a) of this title, that labeling in accordance with this section is not likely to assist consumers in purchasing decisions. Any such determination shall be published in the Federal Register, together with the reasons therefor. This paragraph shall not apply to the prescription of a labeling rule with respect to covered products of a type specified in paragraph (19)<sup>1</sup> of section 6292(a) of this title.

**(c) Content of label**

(1) Subject to paragraph (6), a rule prescribed under this section shall require that each covered product in the type or class of covered products to which the rule applies bear a label which discloses—

(A) the estimated annual operating cost of such product (determined in accordance with test procedures prescribed under section 6293 of this title), except that if—

(i) the Secretary determines that disclosure of estimated annual operating cost is not technologically feasible, or

(ii) the Commission determines that such disclosure is not likely to assist consumers in making purchasing decisions or is not economically feasible,

the Commission shall require disclosure of a different useful measure of energy consump-

<sup>1</sup> See References in Text note below.

tion (determined in accordance with test procedures prescribed under section 6293 of this title); and

(B) information respecting the range of estimated annual operating costs for covered products to which the rule applies; except that if the Commission requires disclosure under subparagraph (A) of a measure of energy consumption different from estimated annual operating cost, then the label shall disclose the range of such measure of energy consumption of covered products to which such rule applies.

(2) A rule under this section shall include the following:

(A) A description of the type or class of covered products to which such rule applies.

(B) Subject to paragraph (6), information respecting the range of estimated annual operating costs or other useful measure of energy consumption (determined in such manner as the rule may prescribe) for such type or class of covered products.

(C) A description of the test procedures under section 6293 of this title used in determining the estimated annual operating costs or other measure of energy consumption of the type or class of covered products.

(D) A prototype label and directions for displaying such label.

(3) A rule under this section shall require that the label be displayed in a manner that the Commission determines is likely to assist consumers in making purchasing decisions and is appropriate to carry out this part. The Commission may permit a tag to be used in lieu of a label in any case in which the Commission finds that a tag will carry out the purposes for which the label was intended.

(4) A rule under this section applicable to a covered product may require disclosure, in any printed matter displayed or distributed at the point of sale of such product, of any information which may be required under this section to be disclosed on the label of such product. Requirements under this paragraph shall not apply to any broadcast advertisement or any advertisement in any newspaper, magazine, or other periodical.

(5) The Commission may require that a manufacturer of a covered product to which a rule under this section applies—

(A) include on the label,

(B) separately attach to the product, or

(C) ship with the product,

additional information relating to energy consumption, including instructions for the maintenance, use, or repair of the covered product, if the Commission determines that such additional information would assist consumers in making purchasing decisions or in using such product, and that such requirement would not be unduly burdensome to manufacturers.

(6) The Commission may delay the effective date of the requirement specified in paragraph (1)(B) of this subsection applicable to a type or class of covered product, insofar as it requires the disclosure on the label of information respecting range of a measure of energy consumption, for not more than 12 months after the date on which the rule under this section is first ap-

plicable to such type or class, if the Commission determines that such information will not be available within an adequate period of time before such date.

(7) Paragraphs (1), (2), (3), (5), and (6) of this subsection shall not apply to the covered product specified in paragraphs (13), (14), (15), (16), (17), and (18) of section 6292(a) of this title.

(8) If a manufacturer of a covered product specified in paragraph (15) or (17) of section 6292(a) of this title elects to provide a label for such covered product conveying the estimated annual operating cost of such product or the range of estimated annual operating costs for the type or class of such product—

(A) such estimated cost or range of costs shall be determined in accordance with test procedures prescribed under section 6293 of this title;

(B) the format of such label shall be in accordance with a format prescribed by the Commission; and

(C) such label shall be displayed in a manner, prescribed by the Commission, to be likely to assist consumers in making purchasing decisions and appropriate to carry out the purposes of this chapter.

(9) DISCRETIONARY APPLICATION.—The Commission may apply paragraphs (1), (2), (3), (5), and (6) of this subsection to the labeling of any product covered by paragraph (2)(I) or (6) of subsection (a).

**(d) Effective date**

A rule under this section (or an amendment thereto) shall not apply to any covered product the manufacture of which was completed prior to the effective date of such rule or amendment, as the case may be.

**(e) Study of certain products**

The Secretary, in consultation with the Commission, shall study consumer products for which labeling rules under this section have not been proposed, in order to determine (1) the aggregate energy consumption of such products, and (2) whether the imposition of labeling requirements under this section would be feasible and useful to consumers in making purchasing decisions. The Secretary shall include the results of such study in the annual report under section 6308 of this title.

**(f) Consultation**

The Secretary and the Commission shall consult with each other on a continuing basis as may be necessary or appropriate to carry out their respective responsibilities under this part. Before the Commission makes any determination under subsection (a)(1) of this section, it shall obtain the views of the Secretary and shall take such views into account in making such determination.

**(g) Other authority of the Commission**

Until such time as labeling rules under this section take effect with respect to a type or class of covered product, this section shall not affect any authority of the Commission under the Federal Trade Commission Act [15 U.S.C. 41 et seq.] to require labeling with respect to energy consumption of such type or class of covered product.

(Pub. L. 94-163, title III, §324, Dec. 22, 1975, 89 Stat. 920; Pub. L. 95-619, title IV, §425(b), (c), title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3265, 3288; Pub. L. 100-12, §11(a)(1), (b)(2), Mar. 17, 1987, 101 Stat. 124, 125; Pub. L. 100-357, §2(d), June 28, 1988, 102 Stat. 672; Pub. L. 102-486, title I, §123(e), Oct. 24, 1992, 106 Stat. 2822; Pub. L. 105-388, §5(a)(4), Nov. 13, 1998, 112 Stat. 3478; Pub. L. 109-58, title I, §137, Aug. 8, 2005, 119 Stat. 645; Pub. L. 110-140, title III, §§321(b), 324(d), 325, Dec. 19, 2007, 121 Stat. 1584, 1593, 1595.)

## REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(2)(E)(ii), (F)(ii) and (c)(8)(C), was in the original “this Act”, meaning Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, as amended, known as the Energy Policy and Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

Paragraph (19) of section 6292(a) of this title, referred to in subsecs. (a)(3), (b)(1)(B), (3), (5), was redesignated (20) and a new par. (19) was added by Pub. L. 110-140, title III, §324(b), Dec. 19, 2007, 121 Stat. 1593.

The Federal Trade Commission Act, referred to in subsec. (g), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

## AMENDMENTS

2007—Subsec. (a)(2)(C). Pub. L. 110-140, §324(d)(2), added subpar. (C). Former subpar. (C) redesignated (D). Subsec. (a)(2)(C)(iii). Pub. L. 110-140, §321(b), added cl. (iii).

Subsec. (a)(2)(D) to (H). Pub. L. 110-140, §324(d)(1), redesignated subpars. (C) to (G) as (D) to (H), respectively.

Subsec. (a)(2)(I). Pub. L. 110-140, §325(a)(1), added subpar. (I).

Subsec. (a)(6). Pub. L. 110-140, §325(a)(2), added par. (6).

Subsec. (c)(9). Pub. L. 110-140, §325(b), added par. (9). 2005—Subsec. (a)(2)(F), (G). Pub. L. 109-58, §137(a), added subpars. (F) and (G).

Subsec. (a)(5). Pub. L. 109-58, §137(b), added par. (5). 1998—Subsec. (a)(2)(C)(ii). Pub. L. 105-388 substituted “section 6295(i)” for “section 6295(j)”.

1992—Subsec. (a)(2)(C) to (E). Pub. L. 102-486, §123(e)(1), added subpars. (C) to (E).

Subsec. (a)(3). Pub. L. 102-486, §123(e)(2), substituted “(19)” for “(14)”.

Subsec. (b)(1)(B). Pub. L. 102-486, §123(e)(3), substituted “(13), and paragraphs (15) through (19)” for “(14)”.

Subsec. (b)(3), (5). Pub. L. 102-486, §123(e)(4), substituted “(19)” for “(14)”.

Subsec. (c)(7). Pub. L. 102-486, §123(e)(5)(A), substituted “paragraphs (13), (14), (15), (16), (17), and (18) of section 6292(a)” for “paragraph (13) of section 6292”.

Subsec. (c)(8). Pub. L. 102-486, §123(e)(5)(B), added par. (8).

1988—Subsec. (a)(2). Pub. L. 100-357, §2(d)(1), designated existing provision as subpar. (A) and added subpar. (B).

Subsecs. (a)(3), (b)(1)(B), (3), (5). Pub. L. 100-357, §2(d)(2), substituted “(14)” for “(13)”.

Subsec. (c)(7). Pub. L. 100-357, §2(d)(3), added par. (7). 1987—Subsec. (a). Pub. L. 100-12, §11(b)(2)(A), inserted heading.

Subsec. (a)(1). Pub. L. 100-12, §11(a)(1)(A), substituted “paragraphs (1), (2), (4), (6), and (8) through (12)” for “paragraphs (1) through (9)”.

Subsec. (a)(2). Pub. L. 100-12, §11(a)(1)(B), substituted “paragraphs (3), (5), and (7)” for “paragraphs (10) through (13)”.

Subsec. (a)(3). Pub. L. 100-12, §11(a)(1)(C)(i), substituted “paragraph (13)” for “paragraph (14)”.

Subsec. (a)(3)(A). Pub. L. 100-12, §11(a)(1)(C)(ii), added subpar. (A) and struck out former subpar. (A) which read as follows: “the Commission or the Secretary has made a determination with respect to such type (or class thereof) under section 6293(a)(5)(B) of this title.”.

Subsec. (a)(3)(B). Pub. L. 100-12, §11(a)(1)(C)(iii), substituted “section 6293(b)(1)(B)” for “section 6293(a)(5)”.

Subsec. (b). Pub. L. 100-12, §11(a)(1)(D), inserted heading.

Subsec. (b)(1). Pub. L. 100-12, §11(a)(1)(D), added par. (1) and struck out former par. (1) which read as follows: “Not later than 30 days after the date on which a proposed test procedure applicable to a covered product of any of the types specified in paragraphs (1) through (14) of section 6292(a) of this title (or class thereof) is published under section 6293(a) of this title, the Commission shall publish a proposed labeling rule applicable to such type (or class thereof).”

Subsec. (b)(3). Pub. L. 100-12, §11(a)(1)(E), substituted “section 6293(b)” for “section 6293” in two places, “(12)” for “(13)”, and “(13)” for “(14)”.

Subsec. (b)(5). Pub. L. 100-12, §11(a)(1)(F), substituted “(3), (5), and (7)” for “(10) through (13)” and “(13)” for “(14)”.

Subsec. (c). Pub. L. 100-12, §11(b)(2)(B), inserted heading.

Subsec. (d). Pub. L. 100-12, §11(b)(2)(C), inserted heading.

Subsec. (e). Pub. L. 100-12, §11(b)(2)(D), inserted heading.

Subsec. (f). Pub. L. 100-12, §11(b)(2)(E), inserted heading.

Pub. L. 100-12, §11(a)(1)(G), struck out “or (2)” after “subsection (a)(1)”.

Subsec. (g). Pub. L. 100-12, §11(b)(2)(F), inserted heading.

1978—Subsec. (a)(1), (2). Pub. L. 95-619, §425(b), struck out labeling rule exception where Administrator had determined under section 6293(a)(6) of this title that test procedures could not be developed pursuant to section 6293(b) of this title.

Subsec. (a)(3). Pub. L. 95-619, §691(b)(2), substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration, in cls. (A) and (B).

Subsec. (c)(1)(A)(i). Pub. L. 95-619, §691(b)(2), substituted “Secretary” for “Administrator”.

Subsec. (c)(5). Pub. L. 95-619, §425(c), inserted “including instructions for the maintenance, use, or repair of the covered product,” after “energy consumption”.

Subsecs. (e), (f). Pub. L. 95-619, §691(b)(2), substituted “Secretary” for “Administrator” wherever appearing.

## EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

## MARKET ASSESSMENTS AND CONSUMER AWARENESS PROGRAM

Pub. L. 110-140, title III, §321(c), Dec. 19, 2007, 121 Stat. 1584, provided that:

“(1) IN GENERAL.—In cooperation with the Administrator of the Environmental Protection Agency, the Secretary of Commerce, the Federal Trade Commission, lighting and retail industry associations, energy efficiency organizations, and any other entities that the Secretary of Energy determines to be appropriate, the Secretary of Energy shall—

“(A) conduct an annual assessment of the market for general service lamps and compact fluorescent lamps—

“(i) to identify trends in the market shares of lamp types, efficiencies, and light output levels purchased by residential and nonresidential consumers; and

“(ii) to better understand the degree to which consumer decisionmaking is based on lamp power

levels or watts, light output or lumens, lamp life-time, and other factors, including information required on labels mandated by the Federal Trade Commission;

“(B) provide the results of the market assessment to the Federal Trade Commission for consideration in the rulemaking described in section 324(a)(2)(C)(iii) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)(C)(iii)); and

“(C) in cooperation with industry trade associations, lighting industry members, utilities, and other interested parties, carry out a proactive national program of consumer awareness, information, and education that broadly uses the media and other effective communication techniques over an extended period of time to help consumers understand the lamp labels and make energy-efficient lighting choices that meet the needs of consumers.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$10,000,000 for each of fiscal years 2009 through 2012.”

§ 6294a. Energy Star program

(a) In general

There is established within the Department of Energy and the Environmental Protection Agency a voluntary program to identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through voluntary labeling of, or other forms of communication about, products and buildings that meet the highest energy conservation standards.

(b) Division of responsibilities

Responsibilities under the program shall be divided between the Department of Energy and the Environmental Protection Agency in accordance with the terms of applicable agreements between those agencies.

(c) Duties

The Administrator and the Secretary shall—

(1) promote Energy Star compliant technologies as the preferred technologies in the marketplace for—

- (A) achieving energy efficiency; and
(B) reducing pollution;

(2) work to enhance public awareness of the Energy Star label, including by providing special outreach to small businesses;

(3) preserve the integrity of the Energy Star label;

(4) regularly update Energy Star product criteria for product categories;

(5) solicit comments from interested parties prior to establishing or revising an Energy Star product category, specification, or criterion (or prior to effective dates for any such product category, specification, or criterion);

(6) on adoption of a new or revised product category, specification, or criterion, provide reasonable notice to interested parties of any changes (including effective dates) in product categories, specifications, or criteria, along with—

- (A) an explanation of the changes; and
(B) as appropriate, responses to comments submitted by interested parties; and

(7) provide appropriate lead time (which shall be 270 days, unless the Agency or Department specifies otherwise) prior to the applica-

ble effective date for a new or a significant revision to a product category, specification, or criterion, taking into account the timing requirements of the manufacturing, product marketing, and distribution process for the specific product addressed.

(d) Deadlines

The Secretary shall establish new qualifying levels—

(1) not later than January 1, 2006, for clothes washers and dishwashers, effective beginning January 1, 2007; and

(2) not later than January 1, 2008, for clothes washers, effective beginning July 1, 2009.

(Pub. L. 94-163, title III, § 324A, as added Pub. L. 109-58, title I, § 131(a), Aug. 8, 2005, 119 Stat. 620; amended Pub. L. 110-140, title III, § 311(b), Dec. 19, 2007, 121 Stat. 1564.)

AMENDMENTS

2007—Subsec. (d)(2). Pub. L. 110-140 substituted “July 1, 2009” for “January 1, 2010”.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§ 6295. Energy conservation standards

(a) Purposes

The purposes of this section are to—

(1) provide Federal energy conservation standards applicable to covered products; and

(2) authorize the Secretary to prescribe amended or new energy conservation standards for each type (or class) of covered product.

(b) Standards for refrigerators, refrigerator-freezers, and freezers

(1) The following is the maximum energy use allowed in kilowatt hours per year for the following products (other than those described in paragraph (2)) manufactured on or after January 1, 1990:

Table with 2 columns: Product description and Energy Standards Equations. Includes Refrigerators and Refrigerator-Freezers with manual defrost, Refrigerator-Freezers—partial automatic defrost, Refrigerator-Freezers—automatic defrost with: Top mounted freezer without ice, Side mounted freezer without ice, Bottom mounted freezer without ice, Top mounted freezer with through the door ice service, Side mounted freezer with through the door ice, Upright Freezers with: Manual defrost, Automatic defrost, Chest Freezers and all other freezers.

(2) The standards described in paragraph (1) do not apply to refrigerators and refrigerator-freezers with total refrigerated volume exceeding 39 cubic feet or freezers with total refrigerated volume exceeding 30 cubic feet.

(3)(A)(i) The Secretary shall publish a proposed rule, no later than July 1, 1988, to determine if the standards established by paragraph (1) should be amended. The Secretary shall publish a final rule no later than July 1, 1989, which shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1993. If such a final rule is not published before January 1, 1990, any amendment of such standards shall apply to products manufactured on or after January 1, 1995. Nothing in this subsection provides any justification or defense for a failure by the Secretary to comply with the nondiscretionary duty to publish final rules by the dates stated in this paragraph.

(ii)(I) If the Secretary does not publish a final rule before January 1, 1990, relating to the revision of the energy conservation standards for refrigerators, refrigerator-freezers and freezers, the regulations which established standards for such products and were promulgated by the California Energy Commission on December 14, 1984, to be effective January 1, 1992 (or any amendments to such standards that are not more stringent than the standards in the original regulations), shall apply in California to such products, effective beginning January 1, 1993, and shall not be preempted after such effective date by any energy conservation standard established in this section or prescribed, on or after January 1, 1990, under this section.

(II) If the Secretary does not publish a final rule before January 1, 1992, relating to the revision of the energy conservation standards for refrigerators, refrigerator-freezers and freezers, State regulations which apply to such products manufactured on or after January 1, 1995, shall apply to such products until the effective date of a rule issued under this section with respect to such products.

(B) After the publication of a final rule under subparagraph (A), the Secretary shall publish a final rule no later than five years after the date of publication of the previous final rule. The Secretary shall determine in such rule whether to amend the standards in effect for the products described in paragraph (1).

(C) Any amendment prescribed under subparagraph (B) shall apply to products manufactured after a date which is five years after—

- (i) the effective date of the previous amendment; or
- (ii) if the previous final rule did not amend the standards, the earliest date by which the previous amendment could have been effective;

except that in no case may any amended standard apply to products manufactured within three years after publication of the final rule establishing such amended standard.

(4) REFRIGERATORS AND FREEZERS MANUFACTURED ON OR AFTER JANUARY 1, 2014.—

(A) IN GENERAL.—Not later than December 31, 2010, the Secretary shall publish a final rule determining whether to amend the standards in effect for refrigerators, refrigerator-freezers, and freezers manufactured on or after January 1, 2014.

(B) AMENDED STANDARDS.—The final rule shall contain any amended standards.

**(c) Standards for room air conditioners**

(1) The energy efficiency ratio of room air conditioners shall be not less than the following for products manufactured on or after January 1, 1990:

Product Class:	Ratio
Without Reverse Cycle and With Louvered Sides:	
Less than 6,000 Btu .....	8.0
6,000 to 7,999 Btu .....	8.5
8,000 to 13,999 Btu .....	9.0
14,000 to 19,999 Btu .....	8.8
20,000 and more Btu .....	8.2
Without Reverse Cycle and Without Louvered Sides:	
Less than 6,000 Btu .....	8.0
6,000 to 7,999 Btu .....	8.5
8,000 to 13,999 Btu .....	8.5
14,000 to 19,999 Btu .....	8.5
20,000 and more Btu .....	8.2
With Reverse Cycle and With Louvered Sides	8.5
With Reverse Cycle, Without Louvered Sides	8.0

(2)(A) The Secretary shall publish a final rule no later than January 1, 1992, to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1995.

(B) After January 1, 1992, the Secretary shall publish a final rule no later than five years after the date of publication of a previous final rule. The Secretary shall determine in such rule whether to amend the standards in effect for room air conditioners.

(C) Any amendment prescribed under subparagraph (B) shall apply to products manufactured after a date which is five years after—

- (i) the effective date of the previous amendment; or
- (ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective;

except that in no case may any amended standard apply to products manufactured within three years after publication of the final rule establishing such amended standard.

**(d) Standards for central air conditioners and heat pumps**

(1) The seasonal energy efficiency ratio of central air conditioners and central air conditioning heat pumps shall be not less than the following:

- (A) Split Systems: 10.0 for products manufactured on or after January 1, 1992.
- (B) Single Package Systems: 9.7 for products manufactured on or after January 1, 1993.

(2) The heating seasonal performance factor of central air conditioning heat pumps shall be not less than the following:

- (A) Split Systems: 6.8 for products manufactured on or after January 1, 1992.
- (B) Single Package Systems: 6.6 for products manufactured on or after January 1, 1993.

(3)(A) The Secretary shall publish a final rule no later than January 1, 1994, to determine whether the standards established under paragraph (1) should be amended. Such rule shall

contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1999. The Secretary shall publish a final rule no later than January 1, 1994, to determine whether the standards established under paragraph (2) shall be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 2002.

(B) The Secretary shall publish a final rule after January 1, 1994, and no later than January 1, 2001, to determine whether the standards in effect for central air conditioners and central air conditioning heat pumps should be amended. Such rule shall provide that any amendment shall apply to products manufactured on or after January 1, 2006.

**(e) Standards for water heaters; pool heaters; direct heating equipment**

(1) The energy factor of water heaters shall be not less than the following for products manufactured on or after January 1, 1990:

- (A) Gas Water Heater: .62 - (.0019 x Rated Storage Volume in gallons)
- (B) Oil Water Heater: .59 - (.0019 x Rated Storage Volume in gallons)
- (C) Electric Water Heater: .95 - (.00132 x Rated Storage Volume in gallons)

(2) The thermal efficiency of pool heaters manufactured on or after January 1, 1990, shall not be less than 78 percent.

(3) The efficiencies of gas direct heating equipment manufactured on or after January 1, 1990, shall be not less than the following:

Wall	
Fan type	
Up to 42,000 Btu/hour .....	73% AFUE
Over 42,000 Btu/hour .....	74% AFUE
Gravity type	
Up to 10,000 Btu/hour .....	59% AFUE
Over 10,000 Btu/hour up to 12,000 Btu/hour .....	60% AFUE
Over 12,000 Btu/hour up to 15,000 Btu/hour .....	61% AFUE
Over 15,000 Btu/hour up to 19,000 Btu/hour .....	62% AFUE
Over 19,000 Btu/hour up to 27,000 Btu/hour .....	63% AFUE
Over 27,000 Btu/hour up to 46,000 Btu/hour .....	64% AFUE
Over 46,000 Btu/hour .....	65% AFUE
Floor	
Up to 37,000 Btu/hour .....	56% AFUE
Over 37,000 Btu/hour .....	57% AFUE
Room	
Up to 18,000 Btu/hour .....	57% AFUE
Over 18,000 Btu/hour up to 20,000 Btu/hour .....	58% AFUE
Over 20,000 Btu/hour up to 27,000 Btu/hour .....	63% AFUE
Over 27,000 Btu/hour up to 46,000 Btu/hour .....	64% AFUE
Over 46,000 Btu/hour .....	65% AFUE

(4)(A) The Secretary shall publish final rules no later than January 1, 1992, to determine whether the standards established by paragraph (1), (2), or (3) for water heaters, pool heaters, and direct heating equipment should be amended. Such rule shall provide that any amendment shall apply to products manufactured on or after January 1, 1995.

(B) The Secretary shall publish a final rule no later than January 1, 2000, to determine whether standards in effect for such products should be amended. Such rule shall provide that any such amendment shall apply to products manufactured on or after January 1, 2005.

**(f) Standards for furnaces and boilers**

(1) Furnaces (other than furnaces designed solely for installation in mobile homes) manufactured on or after January 1, 1992, shall have an annual fuel utilization efficiency of not less than 78 percent, except that—

(A) boilers (other than gas steam boilers) shall have an annual fuel utilization efficiency of not less than 80 percent and gas steam boilers shall have an annual fuel utilization efficiency of not less than 75 percent; and

(B) the Secretary shall prescribe a final rule not later than January 1, 1989, establishing an energy conservation standard—

(i) which is for furnaces (other than furnaces designed solely for installation in mobile homes) having an input of less than 45,000 Btu per hour and manufactured on or after January 1, 1992;

(ii) which provides that the annual fuel utilization efficiency of such furnaces shall be a specific percent which is not less than 71 percent and not more than 78 percent; and

(iii) which the Secretary determines is not likely to result in a significant shift from gas heating to electric resistance heating with respect to either residential construction or furnace replacement.

(2) Furnaces which are designed solely for installation in mobile homes and which are manufactured on or after September 1, 1990, shall have an annual fuel utilization efficiency of not less than 75 percent.

**(3) BOILERS.—**

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), boilers manufactured on or after September 1, 2012, shall meet the following requirements:

Boiler Type	Minimum Annual Fuel Utilization Efficiency	Design Requirements
Gas Hot Water ..	82%	No Constant Burning Pilot, Automatic Means for Adjusting Water Temperature
Gas Steam .....	80%	No Constant Burning Pilot
Oil Hot Water ....	84%	Automatic Means for Adjusting Temperature
Oil Steam .....	82%	None
Electric Hot Water.	None	Automatic Means for Adjusting Temperature
Electric Steam ..	None	None

(B) AUTOMATIC MEANS FOR ADJUSTING WATER TEMPERATURE.—

(i) IN GENERAL.—The manufacturer shall equip each gas, oil, and electric hot water boiler (other than a boiler equipped with a tankless domestic water heating coil) with automatic means for adjusting the temperature of the water supplied by the boiler to ensure that an incremental change in inferred heat load produces a corresponding incremental change in the temperature of water supplied.

(ii) SINGLE INPUT RATE.—For a boiler that fires at 1 input rate, the requirements of this subparagraph may be satisfied by providing an automatic means that allows the burner or heating element to fire only when the means has determined that the inferred heat load cannot be met by the residual heat of the water in the system.

(iii) NO INFERRED HEAT LOAD.—When there is no inferred heat load with respect to a hot water boiler, the automatic means described in clauses (i) and (ii) shall limit the temperature of the water in the boiler to not more than 140 degrees Fahrenheit.

(iv) OPERATION.—A boiler described in clause (i) or (ii) shall be operable only when the automatic means described in clauses (i), (ii), and (iii) is installed.

(C) EXCEPTION.—A boiler that is manufactured to operate without any need for electricity or any electric connection, electric gauges, electric pumps, electric wires, or electric devices shall not be required to meet the requirements of this paragraph.

(4)(A) The Secretary shall publish a final rule no later than January 1, 1992, to determine whether the standards established by paragraph (2) for mobile home furnaces should be amended. Such rule shall provide that any amendment shall apply to products manufactured on or after January 1, 1994.

(B) The Secretary shall publish a final rule no later than January 1, 1994, to determine whether the standards established by this subsection for furnaces (including mobile home furnaces) should be amended. Such rule shall provide that any amendment shall apply to products manufactured on or after January 1, 2002.

(C) After January 1, 1997, and before January 1, 2007, the Secretary shall publish a final rule to determine whether standards in effect for such products should be amended. Such rule shall contain such amendment, if any, and provide that any amendment shall apply to products manufactured on or after January 1, 2012.

(D) Notwithstanding any other provision of this chapter, if the requirements of subsection (o) of this section are met, not later than December 31, 2013, the Secretary shall consider and prescribe energy conservation standards or energy use standards for electricity used for purposes of circulating air through duct work.

**(g) Standards for dishwashers; clothes washers; clothes dryers; fluorescent lamp ballasts**

(1) Dishwashers manufactured on or after January 1, 1988, shall be equipped with an option to dry without heat.

(2) All rinse cycles of clothes washers shall include an unheated water option, but may have a heated water rinse option, for products manufactured on or after January 1, 1988.

(3) Gas clothes dryers shall not be equipped with a constant burning pilot for products manufactured on or after January 1, 1988.

(4)(A) The Secretary shall publish final rules no later than January 1, 1990, to determine if the standards established under this subsection for products described in paragraphs (1), (2), and (3) should be amended. Such rules shall provide that any amendment shall apply to products the manufacture of which is completed on or after January 1, 1993.

(B) After January 1, 1990, the Secretary shall publish a final rule no later than five years after the date of publication of the previous final rule. The Secretary shall determine in such rule whether to amend the standards in effect for such products.

(C) Any such amendment shall apply to products manufactured after a date which is five years after—

(i) the effective date of the previous amendment; or

(ii) if the previous final rule did not amend the standard, the earliest date by which a previous amendment could have been in effect;

except that in no case may any amended standard apply to products manufactured within three years after publication of the final rule establishing such standard.

(5) Except as provided in paragraph (6), each fluorescent lamp ballast—

(A)(i) manufactured on or after January 1, 1990;

(ii) sold by the manufacturer on or after April 1, 1990; or

(iii) incorporated into a luminaire by a luminaire manufacturer on or after April 1, 1991; and

(B) designed—

(i) to operate at nominal input voltages of 120 or 277 volts;

(ii) to operate with an input current frequency of 60 Hertz; and

(iii) for use in connection with an F40T12, F96T12, or F96T12HO lamps;

shall have a power factor of 0.90 or greater and shall have a ballast efficacy factor not less than the following:

Application for Operation of	Ballast Input Voltage	Total Nominal Lamp Watts	Ballast Efficacy Factor
one F40T12 lamp	120	40	1.805
	277	40	1.805
two F40T12 lamps .....	120	80	1.060
	277	80	1.050
two F96T12 lamps .....	120	150	0.570
	277	150	0.570
two F96T12HO lamps .....	120	220	0.390
	277	220	0.390

(6) The standards described in paragraph (5) do not apply to (A) a ballast which is designed for dimming or for use in ambient temperatures of 0° F or less, or (B) a ballast which has a power



factor of less than 0.90 and is designed and labeled for use only in residential building applications.

(7)(A) The Secretary shall publish a final rule no later than January 1, 1992, to determine if the standards established under paragraph (5) should be amended, including whether such standards should be amended so that they would be applicable to ballasts described in paragraph (6) and other fluorescent lamp ballasts. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1995.

(B) After January 1, 1992, the Secretary shall publish a final rule no later than five years after the date of publication of a previous final rule. The Secretary shall determine in such rule whether to amend the standards in effect for fluorescent lamp ballasts, including whether such standards should be amended so that they would be applicable to additional fluorescent lamp ballasts.

(C) Any amendment prescribed under subparagraph (B) shall apply to products manufactured after a date which is five years after—

- (i) the effective date of the previous amendment; or
- (ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective;

except that in no case may any amended standard apply to products manufactured within three years after publication of the final rule establishing such amended standard.

(8)(A) Each fluorescent lamp ballast (other than replacement ballasts or ballasts described in subparagraph (C))—

- (i)(I) manufactured on or after July 1, 2009;
- (II) sold by the manufacturer on or after October 1, 2009; or
- (III) incorporated into a luminaire by a luminaire manufacturer on or after July 1, 2010; and
- (ii) designed—
  - (I) to operate at nominal input voltages of 120 or 277 volts;
  - (II) to operate with an input current frequency of 60 Hertz; and
  - (III) for use in connection with F34T12 lamps, F96T12/ES lamps, or F96T12HO/ES lamps;

shall have a power factor of 0.90 or greater and shall have a ballast efficacy factor of not less than the following:

Application for operation of	Ballast input voltage	Total nominal lamp watts	Ballast efficacy factor
One F34T12 lamp	120/277	34	2.61
Two F34T12 lamps	120/277	68	1.35
Two F96T12/ES lamps	120/277	120	0.77
Two F96T12HO/ES lamps	120/277	190	0.42.

(B) The standards described in subparagraph (A) shall apply to all ballasts covered by subparagraph (A)(ii) that are manufactured on or after July 1, 2010, or sold by the manufacturer on or after October 1, 2010.

(C) The standards described in subparagraph (A) do not apply to—

(i) a ballast that is designed for dimming to 50 percent or less of the maximum output of the ballast;

(ii) a ballast that is designed for use with 2 F96T12HO lamps at ambient temperatures of 20°F or less and for use in an outdoor sign; or

(iii) a ballast that has a power factor of less than 0.90 and is designed and labeled for use only in residential applications.

(9) RESIDENTIAL CLOTHES WASHERS MANUFACTURED ON OR AFTER JANUARY 1, 2011.—

(A) IN GENERAL.—A top-loading or front-loading standard-size residential clothes washer manufactured on or after January 1, 2011, shall have—

- (i) a Modified Energy Factor of at least 1.26; and
- (ii) a water factor of not more than 9.5.

(B) AMENDMENT OF STANDARDS.—

(i) IN GENERAL.—Not later than December 31, 2011, the Secretary shall publish a final rule determining whether to amend the standards in effect for clothes washers manufactured on or after January 1, 2015.

(ii) AMENDED STANDARDS.—The final rule shall contain any amended standards.

(10) RESIDENTIAL DISHWASHERS MANUFACTURED ON OR AFTER JANUARY 1, 2010.—

(A) IN GENERAL.—A dishwasher manufactured on or after January 1, 2010, shall—

- (i) for a standard size dishwasher not exceed 355 kWh/year and 6.5 gallons per cycle; and
- (ii) for a compact size dishwasher not exceed 260 kWh/year and 4.5 gallons per cycle.

(B) AMENDMENT OF STANDARDS.—

(i) IN GENERAL.—Not later than January 1, 2015, the Secretary shall publish a final rule determining whether to amend the standards for dishwashers manufactured on or after January 1, 2018.

(ii) AMENDED STANDARDS.—The final rule shall contain any amended standards.

**(h) Standards for kitchen ranges and ovens**

(1) Gas kitchen ranges and ovens having an electrical supply cord shall not be equipped with a constant burning pilot for products manufactured on or after January 1, 1990.

(2)(A) The Secretary shall publish a final rule no later than January 1, 1992, to determine if the standards established for kitchen ranges and ovens in this subsection should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1995.

(B) The Secretary shall publish a final rule no later than January 1, 1997, to determine whether standards in effect for such products should be amended. Such rule shall apply to products manufactured on or after January 1, 2000.

**(i) General service fluorescent lamps, general service incandescent lamps, intermediate base incandescent lamps, candelabra base incandescent lamps, and incandescent reflector lamps**

(1) STANDARDS.—

(A) DEFINITION OF EFFECTIVE DATE.—In this paragraph (other than subparagraph (D)), the

term “effective date” means, with respect to each type of lamp specified in a table contained in subparagraph (B), the last day of the period of months corresponding to that type of lamp (as specified in the table) that follows October 24, 1992.

(B) MINIMUM STANDARDS.—Each of the following general service fluorescent lamps and incandescent reflector lamps manufactured after the effective date specified in the tables contained in this paragraph shall meet or exceed the following lamp efficacy and CRI standards:

FLUORESCENT LAMPS

Lamp Type	Nominal Lamp Wattage	Minimum CRI	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
4-foot medium bi-pin .....	>35 W	69	75.0	36
	≤35 W	45	75.0	36
2-foot U-shaped .....	>35 W	69	68.0	36
	≤35 W	45	64.0	36
8-foot slimline .....	65 W	69	80.0	18
	≤65 W	45	80.0	18
8-foot high output .....	>100 W	69	80.0	18
	≤100 W	45	80.0	18

INCANDESCENT REFLECTOR LAMPS

Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
40-50 .....	10.5	36
51-66 .....	11.0	36
67-85 .....	12.5	36
86-115 .....	14.0	36
116-155 .....	14.5	36
156-205 .....	15.0	36

(C) EXEMPTIONS.—The standards specified in subparagraph (B) shall not apply to the following types of incandescent reflector lamps:

- (i) Lamps rated at 50 watts or less that are ER30, BR30, BR40, or ER40 lamps.
- (ii) Lamps rated at 65 watts that are BR30, BR40, or ER40 lamps.
- (iii) R20 incandescent reflector lamps rated 45 watts or less.

(D) EFFECTIVE DATES.—

(i) ER, BR, AND BPAR LAMPS.—The standards specified in subparagraph (B) shall apply with respect to ER incandescent reflector lamps, BR incandescent reflector lamps, BPAR incandescent reflector lamps, and similar bulb shapes on and after January 1, 2008.

(ii) LAMPS BETWEEN 2.25-2.75 INCHES IN DIAMETER.—The standards specified in subparagraph (B) shall apply with respect to incandescent reflector lamps with a diameter of more than 2.25 inches, but not more than 2.75 inches, on and after the later of January 1, 2008, or the date that is 180 days after December 19, 2007.

(2) Notwithstanding section 6302(a)(5) of this title and section 6302(b) of this title, it shall not be unlawful for a manufacturer to sell a lamp which is in compliance with the law at the time such lamp was manufactured.

(3) Not less than 36 months after October 24, 1992, the Secretary shall initiate a rulemaking procedure and shall publish a final rule not later than the end of the 54-month period beginning on October 24, 1992, to determine if the standards established under paragraph (1) should be

amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

(4) Not less than eight years after October 24, 1992, the Secretary shall initiate a rulemaking procedure and shall publish a final rule not later than nine years and six months after October 24, 1992, to determine if the standards in effect for fluorescent lamps and incandescent lamps should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

(5) Not later than the end of the 24-month period beginning on the date labeling requirements under section 6294(a)(2)(C)<sup>1</sup> of this title become effective, the Secretary shall initiate a rulemaking procedure to determine if the standards in effect for fluorescent lamps and incandescent lamps should be amended so that they would be applicable to additional general service fluorescent<sup>2</sup> and shall publish, not later than 18 months after initiating such rulemaking, a final rule including such amended standards, if any. Such rule shall provide that the amendment shall apply to products manufactured after a date which is 36 months after the date such rule is published.

(6) STANDARDS FOR GENERAL SERVICE LAMPS.—

(A) RULEMAKING BEFORE JANUARY 1, 2014.—

(i) IN GENERAL.—Not later than January 1, 2014, the Secretary shall initiate a rulemaking procedure to determine whether—

(I) standards in effect for general service lamps should be amended to establish more stringent standards than the standards specified in paragraph (1)(A); and

(II) the exemptions for certain incandescent lamps should be maintained or discontinued based, in part, on exempted lamp sales collected by the Secretary from manufacturers.

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. The word “lamps” probably should appear after “fluorescent”.

(ii) SCOPE.—The rulemaking—

(I) shall not be limited to incandescent lamp technologies; and

(II) shall include consideration of a minimum standard of 45 lumens per watt for general service lamps.

(iii) AMENDED STANDARDS.—If the Secretary determines that the standards in effect for general service incandescent lamps should be amended, the Secretary shall publish a final rule not later than January 1, 2017, with an effective date that is not earlier than 3 years after the date on which the final rule is published.

(iv) PHASED-IN EFFECTIVE DATES.—The Secretary shall consider phased-in effective dates under this subparagraph after considering—

(I) the impact of any amendment on manufacturers, retiring and repurposing existing equipment, stranded investments, labor contracts, workers, and raw materials; and

(II) the time needed to work with retailers and lighting designers to revise sales and marketing strategies.

(v) BACKSTOP REQUIREMENT.—If the Secretary fails to complete a rulemaking in accordance with clauses (i) through (iv) or if the final rule does not produce savings that are greater than or equal to the savings from a minimum efficacy standard of 45 lumens per watt, effective beginning January 1, 2020, the Secretary shall prohibit the sale of any general service lamp that does not meet a minimum efficacy standard of 45 lumens per watt.

(vi) STATE PREEMPTION.—Neither section 6297(b) of this title nor any other provision of law shall preclude California or Nevada from adopting, effective beginning on or after January 1, 2018—

(I) a final rule adopted by the Secretary in accordance with clauses (i) through (iv);

(II) if a final rule described in subclause (I) has not been adopted, the backstop requirement under clause (v); or

(III) in the case of California, if a final rule described in subclause (I) has not been adopted, any California regulations relating to these covered products adopted pursuant to State statute in effect as of December 19, 2007.

(B) RULEMAKING BEFORE JANUARY 1, 2020.—

(i) IN GENERAL.—Not later than January 1, 2020, the Secretary shall initiate a rulemaking procedure to determine whether—

(I) standards in effect for general service incandescent lamps should be amended to reflect lumen ranges with more stringent maximum wattage than the standards specified in paragraph (1)(A); and

(II) the exemptions for certain incandescent lamps should be maintained or discontinued based, in part, on exempted lamp sales data collected by the Secretary from manufacturers.

(ii) SCOPE.—The rulemaking shall not be limited to incandescent lamp technologies.

(iii) AMENDED STANDARDS.—If the Secretary determines that the standards in effect for general service incandescent lamps should be amended, the Secretary shall publish a final rule not later than January 1, 2022, with an effective date that is not earlier than 3 years after the date on which the final rule is published.

(iv) PHASED-IN EFFECTIVE DATES.—The Secretary shall consider phased-in effective dates under this subparagraph after considering—

(I) the impact of any amendment on manufacturers, retiring and repurposing existing equipment, stranded investments, labor contracts, workers, and raw materials; and

(II) the time needed to work with retailers and lighting designers to revise sales and marketing strategies.

(7)(A) With respect to any lamp to which standards are applicable under this subsection or any lamp specified in section 6317 of this title, the Secretary shall inform any Federal entity proposing actions which would adversely impact the energy consumption or energy efficiency of such lamp of the energy conservation consequences of such action. It shall be the responsibility of such Federal entity to carefully consider the Secretary's comments.

(B) Notwithstanding subsection (n)(1) of this section, the Secretary shall not be prohibited from amending any standard, by rule, to permit increased energy use or to decrease the minimum required energy efficiency of any lamp to which standards are applicable under this subsection if such action is warranted as a result of other Federal action (including restrictions on materials or processes) which would have the effect of either increasing the energy use or decreasing the energy efficiency of such product.

(8) Not later than the date on which standards established pursuant to this subsection become effective, or, with respect to high-intensity discharge lamps covered under section 6317 of this title, the effective date of standards established pursuant to such section, each manufacturer of a product to which such standards are applicable shall file with the Secretary a laboratory report certifying compliance with the applicable standard for each lamp type. Such report shall include the lumen output and wattage consumption for each lamp type as an average of measurements taken over the preceding 12-month period. With respect to lamp types which are not manufactured during the 12-month period preceding the date such standards become effective, such report shall be filed with the Secretary not later than the date which is 12 months after the date manufacturing is commenced and shall include the lumen output and wattage consumption for each such lamp type as an average of measurements taken during such 12-month period.

**(j) Standards for showerheads and faucets**

(1) The maximum water use allowed for any showerhead manufactured after January 1, 1994, is 2.5 gallons per minute when measured at a flowing water pressure of 80 pounds per square inch. Any such showerhead shall also meet the

requirements of ASME/ANSI A112.18.1M-1989, 7.4.3(a).

(2) The maximum water use allowed for any of the following faucets manufactured after January 1, 1994, when measured at a flowing water pressure of 80 pounds per square inch, is as follows:

Lavatory faucets .....	2.5 gallons per minute
Lavatory replacement aerators .....	2.5 gallons per minute
Kitchen faucets .....	2.5 gallons per minute
Kitchen replacement aerators .....	2.5 gallons per minute
Metering faucets .....	0.25 gallons per cycle

(3)(A) If the maximum flow rate requirements or the design requirements of ASME/ANSI Standard A112.18.1M-1989 are amended to improve the efficiency of water use of any type or class of showerhead or faucet and are approved by ANSI, the Secretary shall, not later than 12 months after the date of such amendment, publish a final rule establishing an amended uniform national standard for that product at the level specified in the amended ASME/ANSI Standard A112.18.1M and providing that such standard shall apply to products manufactured after a date which is 12 months after the publication of such rule, unless the Secretary determines, by rule published in the Federal Register, that adoption of a uniform national standard at the level specified in such amended ASME/ANSI Standard A112.18.1M—

- (i) is not technologically feasible and economically justified under subsection (o) of this section;
- (ii) is not consistent with the maintenance of public health and safety; or
- (iii) is not consistent with the purposes of this chapter.

(B)(i) As part of the rulemaking conducted under subparagraph (A), the Secretary shall also determine if adoption of a uniform national standard for any type or class of showerhead or faucet more stringent than such amended ASME/ANSI Standard A112.18.1M—

- (I) would result in additional conservation of energy or water;
- (II) would be technologically feasible and economically justified under subsection (o) of this section; and
- (III) would be consistent with the maintenance of public health and safety.

(ii) If the Secretary makes an affirmative determination under clause (i), the final rule published under subparagraph (A) shall waive the provisions of section 6297(c) of this title with respect to any State regulation concerning the water use or water efficiency of such type or class of showerhead or faucet if such State regulation—

- (I) is more stringent than amended ASME/ANSI Standard A112.18.1M for such type or class of showerhead or faucet and the standard in effect for such product on the day before the date on which a final rule is published under subparagraph (A); and
- (II) is applicable to any sale or installation of all products in such type or class of showerhead or faucet.

(C) If, after any period of five consecutive years, the maximum flow rate requirements of

the ASME/ANSI standard for showerheads are not amended to improve the efficiency of water use of such products, or after any such period such requirements for faucets are not amended to improve the efficiency of water use of such products, the Secretary shall, not later than six months after the end of such five-year period, publish a final rule waiving the provisions of section 6297(c) of this title with respect to any State regulation concerning the water use or water efficiency of such type or class of showerhead or faucet if such State regulation—

- (i) is more stringent than the standards in effect for such type or class of showerhead or faucet; and
- (ii) is applicable to any sale or installation of all products in such type or class of showerhead or faucet.

**(k) Standards for water closets and urinals**

(1)(A) Except as provided in subparagraph (B), the maximum water use allowed in gallons per flush for any of the following water closets manufactured after January 1, 1994, is the following:

Gravity tank-type toilets .....	1.6 gpf.
Flushometer tank toilets .....	1.6 gpf.
Electromechanical hydraulic toilets ...	1.6 gpf.
Blowout toilets .....	3.5 gpf.

(B) The maximum water use allowed for any gravity tank-type white 2-piece toilet which bears an adhesive label conspicuous upon installation consisting of the words “Commercial Use Only” manufactured after January 1, 1994, and before January 1, 1997, is 3.5 gallons per flush.

(C) The maximum water use allowed for flushometer valve toilets, other than blowout toilets, manufactured after January 1, 1997, is 1.6 gallons per flush.

(2) The maximum water use allowed for any urinal manufactured after January 1, 1994, is 1.0 gallon per flush.

(3)(A) If the maximum flush volume requirements of ASME Standard A112.19.6-1990 are amended to improve the efficiency of water use of any low consumption water closet or low consumption urinal and are approved by ANSI, the Secretary shall, not later than 12 months after the date of such amendment, publish a final rule establishing an amended uniform national standard for that product at the level specified in amended ASME/ANSI Standard A112.19.6 and providing that such standard shall apply to products manufactured after a date which is one year after the publication of such rule, unless the Secretary determines, by rule published in the Federal Register, that adoption of a uniform national standard at the level specified in such amended ASME/ANSI Standard A112.19.6—

- (i) is not technologically feasible and economically justified under subsection (o) of this section;
- (ii) is not consistent with the maintenance of public health and safety; or
- (iii) is not consistent with the purposes of this chapter.

(B)(i) As part of the rulemaking conducted under subparagraph (A), the Secretary shall also determine if adoption of a uniform national standard for any type or class of low consumption water closet or low consumption urinal

more stringent than such amended ASME/ANSI Standard A112.19.6 for such product—

(I) would result in additional conservation of energy or water;

(II) would be technologically feasible and economically justified under subsection (o) of this section; and

(III) would be consistent with the maintenance of public health and safety.

(ii) If the Secretary makes an affirmative determination under clause (i), the final rule published under subparagraph (A) shall waive the provisions of section 6297(c) of this title with respect to any State regulation concerning the water use or water efficiency of such type or class of low consumption water closet or low consumption urinal if such State regulation—

(I) is more stringent than amended ASME/ANSI Standard A112.19.6 for such type or class of low consumption water closet or low consumption urinal and the standard in effect for such product on the day before the date on which a final rule is published under subparagraph (A); and

(II) is applicable to any sale or installation of all products in such type or class of low consumption water closet or low consumption urinal.

(C) If, after any period of five consecutive years, the maximum flush volume requirements of the ASME/ANSI standard for low consumption water closets are not amended to improve the efficiency of water use of such products, or after any such period such requirements for low consumption urinals are not amended to improve the efficiency of water use of such products, the Secretary shall, not later than six months after the end of such five-year period, publish a final rule waiving the provisions of section 6297(c) of this title with respect to any State regulation concerning the water use or water efficiency of such type or class of water closet or urinal if such State regulation—

(i) is more stringent than the standards in effect for such type or class of water closet or urinal; and

(ii) is applicable to any sale or installation of all products in such type or class of water closet or urinal.

**(I) Standards for other covered products**

(1) The Secretary may prescribe an energy conservation standard for any type (or class) of covered products of a type specified in paragraph (19)<sup>1</sup> of section 6292(a) of this title if the requirements of subsections (o) and (p) of this section are met and the Secretary determines that—

(A) the average per household energy use within the United States by products of such type (or class) exceeded 150 kilowatt-hours (or its Btu equivalent) for any 12-month period ending before such determination;

(B) the aggregate household energy use within the United States by products of such type (or class) exceeded 4,200,000,000 kilowatt-hours (or its Btu equivalent) for any such 12-month period;

(C) substantial improvement in the energy efficiency of products of such type (or class) is technologically feasible; and

(D) the application of a labeling rule under section 6294 of this title to such type (or class) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) which achieve the maximum energy efficiency which is technologically feasible and economically justified.

(2) Any new or amended standard for covered products of a type specified in paragraph (19)<sup>1</sup> of section 6292(a) of this title shall not apply to products manufactured within five years after the publication of a final rule establishing such standard.

(3) The Secretary may, in accordance with subsections (o) and (p) of this section, prescribe an energy conservation standard for television sets. Any such standard may not become effective with respect to products manufactured before January 1, 1992.

**(4) ENERGY EFFICIENCY STANDARDS FOR CERTAIN LAMPS.—**

(A) IN GENERAL.—The Secretary shall prescribe an energy efficiency standard for rough service lamps, vibration service lamps, 3-way incandescent lamps, 2,601–3,300 lumen general service incandescent lamps, and shatter-resistant lamps only in accordance with this paragraph.

(B) BENCHMARKS.—Not later than 1 year after December 19, 2007, the Secretary, in consultation with the National Electrical Manufacturers Association, shall—

(i) collect actual data for United States unit sales for each of calendar years 1990 through 2006 for each of the 5 types of lamps described in subparagraph (A) to determine the historical growth rate of the type of lamp; and

(ii) construct a model for each type of lamp based on coincident economic indicators that closely match the historical annual growth rate of the type of lamp to provide a neutral comparison benchmark to model future unit sales after calendar year 2006.

**(C) ACTUAL SALES DATA.—**

(i) IN GENERAL.—Effective for each of calendar years 2010 through 2025, the Secretary, in consultation with the National Electrical Manufacturers Association, shall—

(I) collect actual United States unit sales data for each of 5 types of lamps described in subparagraph (A); and

(II) not later than 90 days after the end of each calendar year, compare the lamp sales in that year with the sales predicted by the comparison benchmark for each of the 5 types of lamps described in subparagraph (A).

**(ii) CONTINUATION OF TRACKING.—**

(I) DETERMINATION.—Not later than January 1, 2023, the Secretary shall determine if actual sales data should be tracked for the lamp types described in subparagraph (A) after calendar year 2025.

(II) CONTINUATION.—If the Secretary finds that the market share of a lamp type described in subparagraph (A) could significantly erode the market share for gen-

eral service lamps, the Secretary shall continue to track the actual sales data for the lamp type.

(D) ROUGH SERVICE LAMPS.—

(i) IN GENERAL.—Effective beginning with the first year that the reported annual sales rate for rough service lamps demonstrates actual unit sales of rough service lamps that achieve levels that are at least 100 percent higher than modeled unit sales for that same year, the Secretary shall—

(I) not later than 90 days after the end of the previous calendar year, issue a finding that the index has been exceeded; and

(II) not later than the date that is 1 year after the end of the previous calendar year, complete an accelerated rulemaking to establish an energy conservation standard for rough service lamps.

(ii) BACKSTOP REQUIREMENT.—If the Secretary fails to complete an accelerated rulemaking in accordance with clause (i)(II), effective beginning 1 year after the date of the issuance of the finding under clause (i)(I), the Secretary shall require rough service lamps to—

(I) have a shatter-proof coating or equivalent technology that is compliant with NSF/ANSI 51 and is designed to contain the glass if the glass envelope of the lamp is broken and to provide effective containment over the life of the lamp;

(II) have a maximum 40-watt limitation; and

(III) be sold at retail only in a package containing 1 lamp.

(E) VIBRATION SERVICE LAMPS.—

(i) IN GENERAL.—Effective beginning with the first year that the reported annual sales rate for vibration service lamps demonstrates actual unit sales of vibration service lamps that achieve levels that are at least 100 percent higher than modeled unit sales for that same year, the Secretary shall—

(I) not later than 90 days after the end of the previous calendar year, issue a finding that the index has been exceeded; and

(II) not later than the date that is 1 year after the end of the previous calendar year, complete an accelerated rulemaking to establish an energy conservation standard for vibration service lamps.

(ii) BACKSTOP REQUIREMENT.—If the Secretary fails to complete an accelerated rulemaking in accordance with clause (i)(II), effective beginning 1 year after the date of the issuance of the finding under clause (i)(I), the Secretary shall require vibration service lamps to—

(I) have a maximum 40-watt limitation; and

(II) be sold at retail only in a package containing 1 lamp.

(F) 3-WAY INCANDESCENT LAMPS.—

(i) IN GENERAL.—Effective beginning with the first year that the reported annual sales rate for 3-way incandescent lamps demonstrates actual unit sales of 3-way incan-

descent lamps that achieve levels that are at least 100 percent higher than modeled unit sales for that same year, the Secretary shall—

(I) not later than 90 days after the end of the previous calendar year, issue a finding that the index has been exceeded; and

(II) not later than the date that is 1 year after the end of the previous calendar year, complete an accelerated rulemaking to establish an energy conservation standard for 3-way incandescent lamps.

(ii) BACKSTOP REQUIREMENT.—If the Secretary fails to complete an accelerated rulemaking in accordance with clause (i)(II), effective beginning 1 year after the date of issuance of the finding under clause (i)(I), the Secretary shall require that—

(I) each filament in a 3-way incandescent lamp meet the new maximum wattage requirements for the respective lumen range established under subsection (i)(1)(A)<sup>1</sup>; and

(II) 3-way lamps be sold at retail only in a package containing 1 lamp.

(G) 2,601–3,300 LUMEN GENERAL SERVICE INCANDESCENT LAMPS.—Effective beginning with the first year that the reported annual sales rate demonstrates actual unit sales of 2,601–3,300 lumen general service incandescent lamps in the lumen range of 2,601 through 3,300 lumens (or, in the case of a modified spectrum, in the lumen range of 1,951 through 2,475 lumens) that achieve levels that are at least 100 percent higher than modeled unit sales for that same year, the Secretary shall impose—

(i) a maximum 95-watt limitation on general service incandescent lamps in the lumen range of 2,601 through 3,300 lumens; and

(ii) a requirement that those lamps be sold at retail only in a package containing 1 lamp.

(H) SHATTER-RESISTANT LAMPS.—

(i) IN GENERAL.—Effective beginning with the first year that the reported annual sales rate for shatter-resistant lamps demonstrates actual unit sales of shatter-resistant lamps that achieve levels that are at least 100 percent higher than modeled unit sales for that same year, the Secretary shall—

(I) not later than 90 days after the end of the previous calendar year, issue a finding that the index has been exceeded; and

(II) not later than the date that is 1 year after the end of the previous calendar year, complete an accelerated rulemaking to establish an energy conservation standard for shatter-resistant lamps.

(ii) BACKSTOP REQUIREMENT.—If the Secretary fails to complete an accelerated rulemaking in accordance with clause (i)(II), effective beginning 1 year after the date of issuance of the finding under clause (i)(I), the Secretary shall impose—

(I) a maximum wattage limitation of 40 watts on shatter resistant lamps; and

(II) a requirement that those lamps be sold at retail only in a package containing 1 lamp.

## (I) RULEMAKINGS BEFORE JANUARY 1, 2025.—

(i) IN GENERAL.—Except as provided in clause (ii), if the Secretary issues a final rule prior to January 1, 2025, establishing an energy conservation standard for any of the 5 types of lamps for which data collection is required under any of subparagraphs (D) through (G), the requirement to collect and model data for that type of lamp shall terminate unless, as part of the rulemaking, the Secretary determines that continued tracking is necessary.

(ii) BACKSTOP REQUIREMENT.—If the Secretary imposes a backstop requirement as a result of a failure to complete an accelerated rulemaking in accordance with clause (i)(II) of any of subparagraphs (D) through (G),<sup>3</sup> the requirement to collect and model data for the applicable type of lamp shall continue for an additional 2 years after the effective date of the backstop requirement.

**(m) Amendment of standards****(1) In general**

Not later than 6 years after issuance of any final rule establishing or amending a standard, as required for a product under this part, the Secretary shall publish—

(A) a notice of the determination of the Secretary that standards for the product do not need to be amended, based on the criteria established under subsection (n)(2); or

(B) a notice of proposed rulemaking including new proposed standards based on the criteria established under subsection (o) and the procedures established under subsection (p).

**(2) Notice**

If the Secretary publishes a notice under paragraph (1), the Secretary shall—

(A) publish a notice stating that the analysis of the Department is publicly available; and

(B) provide an opportunity for written comment.

**(3) Amendment of standard; new determination****(A) Amendment of standard**

Not later than 2 years after a notice is issued under paragraph (1)(B), the Secretary shall publish a final rule amending the standard for the product.

**(B) New determination**

Not later than 3 years after a determination under paragraph (1)(A), the Secretary shall make a new determination and publication under subparagraph (A) or (B) of paragraph (1).

**(4) Application to products****(A) In general**

Except as provided in subparagraph (B), an amendment prescribed under this subsection shall apply to—

(i) with respect to refrigerators, refrigerator-freezers, freezers, room air conditioners, dishwashers, clothes washers,

clothes dryers, fluorescent lamp ballasts, and kitchen ranges and ovens, such a product that is manufactured after the date that is 3 years after publication of the final rule establishing an applicable standard; and

(ii) with respect to central air conditioners, heat pumps, water heaters, pool heaters, direct heating equipment, and furnaces, such a product that is manufactured after the date that is 5 years after publication of the final rule establishing an applicable standard.

**(B) Other new standards**

A manufacturer shall not be required to apply new standards to a product with respect to which other new standards have been required during the prior 6-year period.

**(5) Reports**

The Secretary shall promptly submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate—

(A) a progress report every 180 days on compliance with this section, including a specific plan to remedy any failures to comply with deadlines for action established under this section; and

(B) all required reports to the Court or to any party to the Consent Decree in State of New York v Bodman, Consolidated Civil Actions No. 05 Civ. 7807 and No. 05 Civ. 7808.

**(n) Petition for amended standard**

(1) With respect to each covered product described in paragraphs (1) through (11), and in paragraphs (13) and (14) of section 6292(a) of this title, any person may petition the Secretary to conduct a rulemaking to determine for a covered product if the standards contained either in the last final rule required under subsections (b) through (i) of this section or in a final rule published under this section should be amended.

(2) The Secretary shall grant a petition if he finds that it contains evidence which, assuming no other evidence were considered, provides an adequate basis for amending the standards under the following criteria—

(A) amended standards will result in significant conservation of energy;

(B) amended standards are technologically feasible; and

(C) amended standards are cost effective as described in subsection (o)(2)(B)(i)(II) of this section.

The grant of a petition by the Secretary under this subsection creates no presumption with respect to the Secretary's determination of any of the criteria in a rulemaking under this section.

(3) An amendment prescribed under this subsection shall apply to products manufactured after a date which is 5 years after—

(A) the effective date of the previous amendment pursuant to this part; or

(B) if the previous final rule published under this part did not amend the standard, the earliest date by which a previous amendment could have been in effect, except that in no case may an amended standard apply to prod-

<sup>3</sup> So in original. Subpar. (G) does not contain a cl. (i)(II).

ucts manufactured within 3 years (for refrigerators, refrigerator-freezers, and freezers, room air conditioners, dishwashers, clothes washers, clothes dryers, fluorescent lamp ballasts, general service fluorescent lamps, incandescent reflector lamps, and kitchen ranges and ovens) or 5 years (for central air conditioners and heat pumps, water heaters, pool heaters, direct heating equipment and furnaces) after publication of the final rule establishing a standard.

**(o) Criteria for prescribing new or amended standards**

(1) The Secretary may not prescribe any amended standard which increases the maximum allowable energy use, or, in the case of showerheads, faucets, water closets, or urinals, water use, or decreases the minimum required energy efficiency, of a covered product.

(2)(A) Any new or amended energy conservation standard prescribed by the Secretary under this section for any type (or class) of covered product shall be designed to achieve the maximum improvement in energy efficiency, or, in the case of showerheads, faucets, water closets, or urinals, water efficiency, which the Secretary determines is technologically feasible and economically justified.

(B)(i) In determining whether a standard is economically justified, the Secretary shall, after receiving views and comments furnished with respect to the proposed standard, determine whether the benefits of the standard exceed its burdens by, to the greatest extent practicable, considering—

(I) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard;

(II) the savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard;

(III) the total projected amount of energy, or as applicable, water, savings likely to result directly from the imposition of the standard;

(IV) any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;

(V) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

(VI) the need for national energy and water conservation; and

(VII) other factors the Secretary considers relevant.

(ii) For purposes of clause (i)(V), the Attorney General shall make a determination of the impact, if any, of any lessening of competition likely to result from such standard and shall transmit such determination, not later than 60 days after the publication of a proposed rule prescribing or amending an energy conservation standard, in writing to the Secretary, together with an analysis of the nature and extent of such impact. Any such determination and analysis shall be published by the Secretary in the Federal Register.

(iii) If the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy, and as applicable, water, savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure, there shall be a rebuttable presumption that such standard level is economically justified. A determination by the Secretary that such criterion is not met shall not be taken into consideration in the Secretary's determination of whether a standard is economically justified.

(3) The Secretary may not prescribe an amended or new standard under this section for a type (or class) of covered product if—

(A) for products other than dishwashers, clothes washers, clothes dryers, and kitchen ranges and ovens, a test procedure has not been prescribed pursuant to section 6293 of this title with respect to that type (or class) of product; or

(B) the Secretary determines, by rule, that the establishment of such standard will not result in significant conservation of energy or, in the case of showerheads, faucets, water closets, or urinals, water, or that the establishment of such standard is not technologically feasible or economically justified.

For purposes of section 6297 of this title, a determination under subparagraph (B) with respect to any type (or class) of covered products shall have the same effect as would a standard prescribed for such type (or class).

(4) The Secretary may not prescribe an amended or new standard under this section if the Secretary finds (and publishes such finding) that interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States at the time of the Secretary's finding. The failure of some types (or classes) to meet this criterion shall not affect the Secretary's determination of whether to prescribe a standard for other types (or classes).

(5) The Secretary may set more than 1 energy conservation standard for products that serve more than 1 major function by setting 1 energy conservation standard for each major function.

(6) REGIONAL STANDARDS FOR FURNACES, CENTRAL AIR CONDITIONERS, AND HEAT PUMPS.—

(A) IN GENERAL.—In any rulemaking to establish a new or amended standard, the Secretary may consider the establishment of separate standards by geographic region for furnaces (except boilers), central air conditioners, and heat pumps.

(B) NATIONAL AND REGIONAL STANDARDS.—

(i) NATIONAL STANDARD.—If the Secretary establishes a regional standard for a product, the Secretary shall establish a base national standard for the product.

(ii) REGIONAL STANDARDS.—If the Secretary establishes a regional standard for a product, the Secretary may establish more re-



strictive standards for the product by geographic region as follows:

(I) For furnaces, the Secretary may establish 1 additional standard that is applicable in a geographic region defined by the Secretary.

(II) For any cooling product, the Secretary may establish 1 or 2 additional standards that are applicable in 1 or 2 geographic regions as may be defined by the Secretary.

(C) BOUNDARIES OF GEOGRAPHIC REGIONS.—

(i) IN GENERAL.—Subject to clause (ii), the boundaries of additional geographic regions established by the Secretary under this paragraph shall include only contiguous States.

(ii) ALASKA AND HAWAII.—The States of Alaska and Hawaii may be included under this paragraph in a geographic region that the States are not contiguous to.

(iii) INDIVIDUAL STATES.—Individual States shall be placed only into a single region under this paragraph.

(D) PREREQUISITES.—In establishing additional regional standards under this paragraph, the Secretary shall—

(i) establish additional regional standards only if the Secretary determines that—

(I) the establishment of additional regional standards will produce significant energy savings in comparison to establishing only a single national standard; and

(II) the additional regional standards are economically justified under this paragraph; and

(ii) consider the impact of the additional regional standards on consumers, manufacturers, and other market participants, including product distributors, dealers, contractors, and installers.

(E) APPLICATION; EFFECTIVE DATE.—

(i) BASE NATIONAL STANDARD.—Any base national standard established for a product under this paragraph shall—

(I) be the minimum standard for the product; and

(II) apply to all products manufactured or imported into the United States on and after the effective date for the standard.

(ii) REGIONAL STANDARDS.—Any additional and more restrictive regional standard established for a product under this paragraph shall apply to any such product installed on or after the effective date of the standard in States in which the Secretary has designated the standard to apply.

(F) CONTINUATION OF REGIONAL STANDARDS.—

(i) IN GENERAL.—In any subsequent rulemaking for any product for which a regional standard has been previously established, the Secretary shall determine whether to continue the establishment of separate regional standards for the product.

(ii) REGIONAL STANDARD NO LONGER APPROPRIATE.—Except as provided in clause (iii), if the Secretary determines that regional standards are no longer appropriate for a

product, beginning on the effective date of the amended standard for the product—

(I) there shall be 1 base national standard for the product with Federal enforcement; and

(II) State authority for enforcing a regional standard for the product shall terminate.

(iii) REGIONAL STANDARD APPROPRIATE BUT STANDARD OR REGION CHANGED.—

(I) STATE NO LONGER CONTAINED IN REGION.—Subject to subclause (III), if a State is no longer contained in a region in which a regional standard that is more stringent than the base national standard applies, the authority of the State to enforce the regional standard shall terminate.

(II) STANDARD OR REGION REVISED SO THAT EXISTING REGIONAL STANDARD EQUALS BASE NATIONAL STANDARD.—If the Secretary revises a base national standard for a product or the geographic definition of a region so that an existing regional standard for a State is equal to the revised base national standard—

(aa) the authority of the State to enforce the regional standard shall terminate on the effective date of the revised base national standard; and

(bb) the State shall be subject to the revised base national standard.

(III) STANDARD OR REGION REVISED SO THAT EXISTING REGIONAL STANDARD EQUALS BASE NATIONAL STANDARD.—If the Secretary revises a base national standard for a product or the geographic definition of a region so that the standard for a State is lower than the previously approved regional standard, the State may continue to enforce the previously approved standard level.

(iv) WAIVER OF FEDERAL PREEMPTION.—Nothing in this paragraph diminishes the authority of a State to enforce a State regulation for which a waiver of Federal preemption has been granted under section 6297(d) of this title.

(G) ENFORCEMENT.—

(i) BASE NATIONAL STANDARD.—

(I) IN GENERAL.—The Secretary shall enforce any base national standard.

(II) TRADE ASSOCIATION CERTIFICATION PROGRAMS.—In enforcing the base national standard, the Secretary shall use, to the maximum extent practicable, national standard nationally recognized certification programs of trade associations.

(ii) REGIONAL STANDARDS.—

(I) ENFORCEMENT PLAN.—Not later than 90 days after the date of the issuance of a final rule that establishes a regional standard, the Secretary shall initiate a rulemaking to develop and implement an effective enforcement plan for regional standards for the products that are covered by the final rule.

(II) RESPONSIBLE ENTITIES.—Any rules regarding enforcement of a regional standard shall clearly specify which entities are

legally responsible for compliance with the standards and for making any required information or labeling disclosures.

(III) FINAL RULE.—Not later than 15 months after the date of the issuance of a final rule that establishes a regional standard for a product, the Secretary shall promulgate a final rule covering enforcement of regional standards for the product.

(IV) INCORPORATION BY STATES AND LOCALITIES.—A State or locality may incorporate any Federal regional standard into State or local building codes or State appliance standards.

(V) STATE ENFORCEMENT.—A State agency may seek enforcement of a Federal regional standard in a Federal court of competent jurisdiction.

(H) INFORMATION DISCLOSURE.—

(i) IN GENERAL.—Not later than 90 days after the date of the publication of a final rule that establishes a regional standard for a product, the Federal Trade Commission shall undertake a rulemaking to determine the appropriate 1 or more methods for disclosing information so that consumers, distributors, contractors, and installers can easily determine whether a specific piece of equipment that is installed in a specific building is in conformance with the regional standard that applies to the building.

(ii) METHODS.—A method of disclosing information under clause (i) may include—

(I) modifications to the Energy Guide label; or

(II) other methods that make it easy for consumers and installers to use and understand at the point of installation.

(iii) COMPLETION OF RULEMAKING.—The rulemaking shall be completed not later than 15 months after the date of the publication of a final rule that establishes a regional standard for a product.

**(p) Procedure for prescribing new or amended standards**

Any new or amended energy conservation standard shall be prescribed in accordance with the following procedure:

(1) A proposed rule which prescribes an amended or new energy conservation standard or prescribes no amendment or no new standard for a type (or class) of covered products shall be published in the Federal Register. In prescribing any such proposed rule with respect to a standard, the Secretary shall determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for each type (or class) of covered products. If such standard is not designed to achieve such efficiency or use, the Secretary shall state in the proposed rule the reasons therefor.

(2) After the publication of such proposed rulemaking, the Secretary shall, in accordance with section 6306 of this title, afford interested persons an opportunity, during a period of not less than 60 days, to present oral and written comments (including an opportunity to question those who make such pres-

entations, as provided in such section) on matters relating to such proposed rule, including—

(A) whether the standard to be prescribed is economically justified (taking into account those factors which the Secretary must consider under subsection (o)(2) of this section) or will result in the effects described in subsection (o)(4) of this section;

(B) whether the standard will achieve the maximum improvement in energy efficiency which is technologically feasible;

(C) if the standard will not achieve such improvement, whether the reasons for not achieving such improvement are adequate; and

(D) whether such rule should prescribe a level of energy use or efficiency which is higher or lower than that which would otherwise apply in the case of any group of products within the type (or class) that will be subject to such standard.

(3) A final rule prescribing an amended or new energy conservation standard or prescribing no amended or new standard for a type (or class) of covered products shall be published as soon as is practicable, but not less than 90 days, after publication of the proposed rule in the Federal Register.

(4) DIRECT FINAL RULES.—

(A) IN GENERAL.—On receipt of a statement that is submitted jointly by interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of covered products, States, and efficiency advocates), as determined by the Secretary, and contains recommendations with respect to an energy or water conservation standard—

(i) if the Secretary determines that the recommended standard contained in the statement is in accordance with subsection (o) or section 6313(a)(6)(B) of this title, as applicable, the Secretary may issue a final rule that establishes an energy or water conservation standard and is published simultaneously with a notice of proposed rulemaking that proposes a new or amended energy or water conservation standard that is identical to the standard established in the final rule to establish the recommended standard (referred to in this paragraph as a “direct final rule”); or

(ii) if the Secretary determines that a direct final rule cannot be issued based on the statement, the Secretary shall publish a notice of the determination, together with an explanation of the reasons for the determination.

(B) PUBLIC COMMENT.—The Secretary shall solicit public comment for a period of at least 110 days with respect to each direct final rule issued by the Secretary under subparagraph (A)(i).

(C) WITHDRAWAL OF DIRECT FINAL RULES.—

(i) IN GENERAL.—Not later than 120 days after the date on which a direct final rule issued under subparagraph (A)(i) is published in the Federal Register, the Secretary shall withdraw the direct final rule if—

(I) the Secretary receives 1 or more adverse public comments relating to the direct final rule under subparagraph (B)(i)<sup>4</sup> or any alternative joint recommendation; and

(II) based on the rulemaking record relating to the direct final rule, the Secretary determines that such adverse public comments or alternative joint recommendation may provide a reasonable basis for withdrawing the direct final rule under subsection (o), section 6313(a)(6)(B) of this title, or any other applicable law.

(ii) ACTION ON WITHDRAWAL.—On withdrawal of a direct final rule under clause (i), the Secretary shall—

(I) proceed with the notice of proposed rulemaking published simultaneously with the direct final rule as described in subparagraph (A)(i); and

(II) publish in the Federal Register the reasons why the direct final rule was withdrawn.

(iii) TREATMENT OF WITHDRAWN DIRECT FINAL RULES.—A direct final rule that is withdrawn under clause (i) shall not be considered to be a final rule for purposes of subsection (o).

(D) EFFECT OF PARAGRAPH.—Nothing in this paragraph authorizes the Secretary to issue a direct final rule based solely on receipt of more than 1 statement containing recommended standards relating to the direct final rule.

**(q) Special rule for certain types or classes of products**

(1) A rule prescribing an energy conservation standard for a type (or class) of covered products shall specify a level of energy use or efficiency higher or lower than that which applies (or would apply) for such type (or class) for any group of covered products which have the same function or intended use, if the Secretary determines that covered products within such group—

(A) consume a different kind of energy from that consumed by other covered products within such type (or class); or

(B) have a capacity or other performance-related feature which other products within such type (or class) do not have and such feature justifies a higher or lower standard from that which applies (or will apply) to other products within such type (or class).

In making a determination under this paragraph concerning whether a performance-related feature justifies the establishment of a higher or lower standard, the Secretary shall consider such factors as the utility to the consumer of such a feature, and such other factors as the Secretary deems appropriate.

(2) Any rule prescribing a higher or lower level of energy use or efficiency under paragraph (1) shall include an explanation of the basis on which such higher or lower level was established.

**(r) Inclusion in standards of test procedures and other requirements**

Any new or amended energy conservation standard prescribed under this section shall include, where applicable, test procedures prescribed in accordance with section 6293 of this title and may include any requirement which the Secretary determines is necessary to assure that each covered product to which such standard applies meets the required minimum level of energy efficiency or maximum quantity of energy use specified in such standard.

**(s) Determination of compliance with standards**

Compliance with, and performance under, the energy conservation standards (except for design standards authorized by this part) established in, or prescribed under, this section shall be determined using the test procedures and corresponding compliance criteria prescribed under section 6293 of this title.

**(t) Small manufacturer exemption**

(1) Subject to paragraph (2), the Secretary may, on application of any manufacturer, exempt such manufacturer from all or part of the requirements of any energy conservation standard established in or prescribed under this section for any period not longer than the 24-month period beginning on the date such rule becomes effective, if the Secretary finds that the annual gross revenues of such manufacturer from all its operations (including the manufacture and sale of covered products) does not exceed \$8,000,000 for the 12-month period preceding the date of the application. In making such finding with respect to any manufacturer, the Secretary shall take into account the annual gross revenues of any other person who controls, is controlled by, or is under common control with, such manufacturer.

(2) The Secretary may not exercise the authority granted under paragraph (1) with respect to any type (or class) of covered product subject to an energy conservation standard under this section unless the Secretary makes a finding, after obtaining the written views of the Attorney General, that a failure to allow an exemption under paragraph (1) would likely result in a lessening of competition.

**(u) Battery charger and external power supply electric energy consumption**

(1)(A) Not later than 18 months after August 8, 2005, the Secretary shall, after providing notice and an opportunity for comment, prescribe, by rule, definitions and test procedures for the power use of battery chargers and external power supplies.

(B) In establishing the test procedures under subparagraph (A), the Secretary shall—

(i) consider existing definitions and test procedures used for measuring energy consumption in standby mode and other modes; and

(ii) assess the current and projected future market for battery chargers and external power supplies.

(C) The assessment under subparagraph (B)(ii) shall include—

(i) estimates of the significance of potential energy savings from technical improvements

<sup>4</sup> So in original. Probably should be "subparagraph (A)(i)".

to battery chargers and external power supplies; and

(ii) suggested product classes for energy conservation standards.

(D) Not later than 18 months after August 8, 2005, the Secretary shall hold a scoping workshop to discuss and receive comments on plans for developing energy conservation standards for energy use for battery chargers and external power supplies.

(E) EXTERNAL POWER SUPPLIES AND BATTERY CHARGERS.—

(i) ENERGY CONSERVATION STANDARDS.—

(I) EXTERNAL POWER SUPPLIES.—Not later than 2 years after August 8, 2005, the Secretary shall issue a final rule that determines whether energy conservation standards shall be issued for external power supplies or classes of external power supplies.

(II) BATTERY CHARGERS.—Not later than July 1, 2011, the Secretary shall issue a final rule that prescribes energy conservation standards for battery chargers or classes of battery chargers or determine that no energy conservation standard is technically feasible and economically justified.

(ii) For each product class, any energy conservation standards issued under clause (i) shall be set at the lowest level of energy use that—

(I) meets the criteria and procedures of subsections (o), (p), (q), (r), (s), and (t) of this section; and

(II) would result in significant overall annual energy savings, considering standby mode and other operating modes.

(2) The Secretary and the Administrator shall collaborate and develop programs (including programs under section 6294a of this title and other voluntary industry agreements or codes of conduct) that are designed to reduce standby mode energy use.

(3) EFFICIENCY STANDARDS FOR CLASS A EXTERNAL POWER SUPPLIES.—

(A) IN GENERAL.—Subject to subparagraphs (B) through (D), a class A external power supply manufactured on or after the later of July 1, 2008, or December 19, 2007, shall meet the following standards:

Active Mode	
Nameplate Output	Required Efficiency (decimal equivalent of a percentage)
Less than 1 watt	0.5 times the Nameplate Output
From 1 watt to not more than 51 watts	The sum of 0.09 times the Natural Logarithm of the Nameplate Output and 0.5
Greater than 51 watts	0.85
No-Load Mode	
Nameplate Output	Maximum Consumption
Not more than 250 watts	0.5 watts

(B) NONCOVERED SUPPLIES.—A class A external power supply shall not be subject to subparagraph (A) if the class A external power supply is—

(i) manufactured during the period beginning on July 1, 2008, and ending on June 30, 2015; and

(ii) made available by the manufacturer as a service part or a spare part for an end-use product—

(I) that constitutes the primary load; and

(II) was manufactured before July 1, 2008.

(C) MARKING.—Any class A external power supply manufactured on or after the later of July 1, 2008 or December 19, 2007, shall be clearly and permanently marked in accordance with the External Power Supply International Efficiency Marking Protocol, as referenced in the “Energy Star Program Requirements for Single Voltage External AC–DC and AC–AC Power Supplies, version 1.1” published by the Environmental Protection Agency.

(D) AMENDMENT OF STANDARDS.—

(i) FINAL RULE BY JULY 1, 2011.—

(I) IN GENERAL.—Not later than July 1, 2011, the Secretary shall publish a final rule to determine whether the standards established under subparagraph (A) should be amended.

(II) ADMINISTRATION.—The final rule shall—

(aa) contain any amended standards; and

(bb) apply to products manufactured on or after July 1, 2013.

(ii) FINAL RULE BY JULY 1, 2015.—

(I) IN GENERAL.—Not later than July 1, 2015 the Secretary shall publish a final rule to determine whether the standards then in effect should be amended.

(II) ADMINISTRATION.—The final rule shall—

(aa) contain any amended standards; and

(bb) apply to products manufactured on or after July 1, 2017.

(7)<sup>5</sup> END-USE PRODUCTS.—An energy conservation standard for external power supplies shall not constitute an energy conservation standard for the separate end-use product to which the external power supplies is connected.

**(v) Refrigerated beverage vending machines**

(1) Not later than 4 years after August 8, 2005, the Secretary shall prescribe, by rule, energy conservation standards for refrigerated bottle or canned beverage vending machines.

(2) In establishing energy conservation standards under this subsection, the Secretary shall use the criteria and procedures prescribed under subsections (o) and (p) of this section.

(3) Any energy conservation standard prescribed under this subsection shall apply to products manufactured 3 years after the date of publication of a final rule establishing the energy conservation standard.

**(w) Illuminated exit signs**

An illuminated exit sign manufactured on or after January 1, 2006, shall meet the version 2.0 Energy Star Program performance requirements

<sup>5</sup> So in original. Probably should be “(4)”.

for illuminated exit signs prescribed by the Environmental Protection Agency.

**(x) Torchieres**

A torchiere manufactured on or after January 1, 2006—

- (1) shall consume not more than 190 watts of power; and
- (2) shall not be capable of operating with lamps that total more than 190 watts.

**(y) Low voltage dry-type distribution transformers**

The efficiency of a low voltage dry-type distribution transformer manufactured on or after January 1, 2007, shall be the Class I Efficiency Levels for distribution transformers specified in table 4-2 of the “Guide for Determining Energy Efficiency for Distribution Transformers” published by the National Electrical Manufacturers Association (NEMA TP-1-2002).

**(z) Traffic signal modules and pedestrian modules**

Any traffic signal module or pedestrian module manufactured on or after January 1, 2006, shall—

- (1) meet the performance requirements used under the Energy Star program of the Environmental Protection Agency for traffic signals, as in effect on August 8, 2005; and
- (2) be installed with compatible, electrically connected signal control interface devices and conflict monitoring systems.

**(aa) Unit heaters**

A unit heater manufactured on or after the date that is 3 years after August 8, 2005, shall—

- (1) be equipped with an intermittent ignition device; and
- (2) have power venting or an automatic flue damper.

**(bb) Medium base compact fluorescent lamps**

(1) A bare lamp and covered lamp (no reflector) medium base compact fluorescent lamp manufactured on or after January 1, 2006, shall meet the following requirements prescribed by the August 9, 2001, version of the Energy Star Program Requirements for Compact Fluorescent Lamps, Energy Star Eligibility Criteria, Energy-Efficiency Specification issued by the Environmental Protection Agency and Department of Energy:

- (A) Minimum initial efficacy.
- (B) Lumen maintenance at 1000 hours.
- (C) Lumen maintenance at 40 percent of rated life.
- (D) Rapid cycle stress test.
- (E) Lamp life.

(2) The Secretary may, by rule, establish requirements for color quality (CRI), power factor, operating frequency, and maximum allowable start time based on the requirements prescribed by the August 9, 2001, version of the Energy Star Program Requirements for Compact Fluorescent Lamps.

- (3) The Secretary may, by rule—
  - (A) revise the requirements established under paragraph (2); or
  - (B) establish other requirements, after considering energy savings, cost effectiveness, and consumer satisfaction.

**(cc) Dehumidifiers**

(1) Dehumidifiers manufactured on or after October 1, 2007, shall have an Energy Factor that meets or exceeds the following values:

<b>Product Capacity (pints/day):</b>	<b>Minimum Energy Factor (Liters/kWh)</b>
25.00 or less .....	1.00
25.01 – 35.00 .....	1.20
35.01 – 54.00 .....	1.30
54.01 – 74.99 .....	1.50
75.00 or more .....	2.25.

(2) DEHUMIDIFIERS MANUFACTURED ON OR AFTER OCTOBER 1, 2012.—Dehumidifiers manufactured on or after October 1, 2012, shall have an Energy Factor that meets or exceeds the following values:

<b>Product Capacity (pints/day):</b>	<b>Minimum Energy Factor (liters/kWh)</b>
Up to 35.00 .....	1.35
35.01-45.00 .....	1.50
45.01-54.00 .....	1.60
54.01-75.00 .....	1.70
Greater than 75.00 .....	2.5.

**(dd) Commercial prerinse spray valves**

Commercial prerinse spray valves manufactured on or after January 1, 2006, shall have a flow rate of not more than 1.6 gallons per minute.

**(ee) Mercury vapor lamp ballasts**

Mercury vapor lamp ballasts (other than specialty application mercury vapor lamp ballasts) shall not be manufactured or imported after January 1, 2008.

**(ff) Ceiling fans and ceiling fan light kits**

(1)(A) All ceiling fans manufactured on or after January 1, 2007, shall have the following features:

- (i) Fan speed controls separate from any lighting controls.
- (ii) Adjustable speed controls (either more than 1 speed or variable speed).
- (iii) The capability of reversible fan action, except for—
  - (I) fans sold for industrial applications;
  - (II) fans sold for outdoor applications; and
  - (III) cases in which safety standards would be violated by the use of the reversible mode.

(B) The Secretary may define the exceptions described in clause (iv) in greater detail, but shall not substantively expand the exceptions.

(2)(A) Ceiling fan light kits with medium screw base sockets manufactured on or after January 1, 2007, shall be packaged with screw-based lamps to fill all screw base sockets.

(B) The screw-based lamps required under subparagraph (A) shall—

- (i) meet the Energy Star Program Requirements for Compact Fluorescent Lamps, version 3.0, issued by the Department of Energy; or
- (ii) use light sources other than compact fluorescent lamps that have lumens per watt performance at least equivalent to comparably configured compact fluorescent lamps meeting the Energy Star Program Requirements described in clause (i).

(3) Ceiling fan light kits with pin-based sockets for fluorescent lamps manufactured on or after January 1, 2007 shall—

(A) meet the Energy Star Program Requirements for Residential Light Fixtures version 4.0 issued by the Environmental Protection Agency; and

(B) be packaged with lamps to fill all sockets.

(4)(A) By January 1, 2007, the Secretary shall consider and issue requirements for any ceiling fan lighting kits other than those covered in paragraphs (2) and (3), including candelabra screw base sockets.

(B) The requirements issued under subparagraph (A) shall be effective for products manufactured 2 years after the date of the final rule.

(C) If the Secretary fails to issue a final rule by the date specified in subparagraph (A), any type of ceiling fan lighting kit described in subparagraph (A) that is manufactured after January 1, 2009—

(i) shall not be capable of operating with lamps that total more than 190 watts; and

(ii) shall be packaged with lamps to fill all sockets.

(5)(A) After January 1, 2010, the Secretary may consider, and issue, if the requirements of subsections (o) and (p) of this section are met, amended energy efficiency standards for ceiling fan light kits.

(B) Any amended standards issued under subparagraph (A) shall apply to products manufactured not earlier than 2 years after the date of publication of the final rule establishing the amended standard.

(6)(A) Notwithstanding any other provision of this chapter, the Secretary may consider, and issue, if the requirements of subsections (o) and (p) of this section are met, energy efficiency or energy use standards for electricity used by ceiling fans to circulate air in a room.

(B) In issuing the standards under subparagraph (A), the Secretary shall consider—

(i) exempting, or setting different standards for, certain product classes for which the primary standards are not technically feasible or economically justified; and

(ii) establishing separate exempted product classes for highly decorative fans for which air movement performance is a secondary design feature.

(7) Section 6297 of this title shall apply to the products covered in paragraphs (1) through (4) beginning on August 8, 2005, except that any State or local labeling requirement for ceiling fans prescribed or enacted before August 8, 2005, shall not be preempted until the labeling requirements applicable to ceiling fans established under section 6294 of this title take effect.

**(gg) Standby mode energy use**

**(1) Definitions**

**(A) In general**

Unless the Secretary determines otherwise pursuant to subparagraph (B), in this subsection:

**(i) Active mode**

The term “active mode” means the condition in which an energy-using product—

(I) is connected to a main power source;

(II) has been activated; and

(III) provides 1 or more main functions.

**(ii) Off mode**

The term “off mode” means the condition in which an energy-using product—

(I) is connected to a main power source; and

(II) is not providing any standby or active mode function.

**(iii) Standby mode**

The term “standby mode” means the condition in which an energy-using product—

(I) is connected to a main power source; and

(II) offers 1 or more of the following user-oriented or protective functions:

(aa) To facilitate the activation or deactivation of other functions (including active mode) by remote switch (including remote control), internal sensor, or timer.

(bb) Continuous functions, including information or status displays (including clocks) or sensor-based functions.

**(B) Amended definitions**

The Secretary may, by rule, amend the definitions under subparagraph (A), taking into consideration the most current versions of Standards 62301 and 62087 of the International Electrotechnical Commission.

**(2) Test procedures**

**(A) In general**

Test procedures for all covered products shall be amended pursuant to section 6293 of this title to include standby mode and off mode energy consumption, taking into consideration the most current versions of Standards 62301 and 62087 of the International Electrotechnical Commission, with such energy consumption integrated into the overall energy efficiency, energy consumption, or other energy descriptor for each covered product, unless the Secretary determines that—

(i) the current test procedures for a covered product already fully account for and incorporate the standby mode and off mode energy consumption of the covered product; or

(ii) such an integrated test procedure is technically infeasible for a particular covered product, in which case the Secretary shall prescribe a separate standby mode and off mode energy use test procedure for the covered product, if technically feasible.

**(B) Deadlines**

The test procedure amendments required by subparagraph (A) shall be prescribed in a final rule no later than the following dates:

(i) December 31, 2008, for battery chargers and external power supplies.

(ii) March 31, 2009, for clothes dryers, room air conditioners, and fluorescent lamp ballasts.

(iii) June 30, 2009, for residential clothes washers.

(iv) September 30, 2009, for residential furnaces and boilers.

(v) March 31, 2010, for residential water heaters, direct heating equipment, and pool heaters.

(vi) March 31, 2011, for residential dishwashers, ranges and ovens, microwave ovens, and dehumidifiers.

**(C) Prior product standards**

The test procedure amendments adopted pursuant to subparagraph (B) shall not be used to determine compliance with product standards established prior to the adoption of the amended test procedures.

**(3) Incorporation into standard**

**(A) In general**

Subject to subparagraph (B), based on the test procedures required under paragraph (2), any final rule establishing or revising a standard for a covered product, adopted after July 1, 2010, shall incorporate standby mode and off mode energy use into a single amended or new standard, pursuant to subsection (o), if feasible.

**(B) Separate standards**

If not feasible, the Secretary shall prescribe within the final rule a separate standard for standby mode and off mode energy consumption, if justified under subsection (o).

**(hh) Metal halide lamp fixtures**

**(1) Standards**

**(A) In general**

Subject to subparagraphs (B) and (C), metal halide lamp fixtures designed to be operated with lamps rated greater than or equal to 150 watts but less than or equal to 500 watts shall contain—

(i) a pulse-start metal halide ballast with a minimum ballast efficiency of 88 percent;

(ii) a magnetic probe-start ballast with a minimum ballast efficiency of 94 percent; or

(iii) a nonpulse-start electronic ballast with—

(I) a minimum ballast efficiency of 92 percent for wattages greater than 250 watts; and

(II) a minimum ballast efficiency of 90 percent for wattages less than or equal to 250 watts.

**(B) Exclusions**

The standards established under subparagraph (A) shall not apply to—

(i) fixtures with regulated lag ballasts;

(ii) fixtures that use electronic ballasts that operate at 480 volts; or

(iii) fixtures that—

(I) are rated only for 150 watt lamps;

(II) are rated for use in wet locations, as specified by the National Electrical Code 2002, section 410.4(A); and

(III) contain a ballast that is rated to operate at ambient air temperatures above 50°C, as specified by UL 1029-2001.

**(C) Application**

The standards established under subparagraph (A) shall apply to metal halide lamp fixtures manufactured on or after the later of—

(i) January 1, 2009; or

(ii) the date that is 270 days after December 19, 2007.

**(2) Final rule by January 1, 2012**

**(A) In general**

Not later than January 1, 2012, the Secretary shall publish a final rule to determine whether the standards established under paragraph (1) should be amended.

**(B) Administration**

The final rule shall—

(i) contain any amended standard; and

(ii) apply to products manufactured on or after January 1, 2015.

**(3) Final rule by January 1, 2019**

**(A) In general**

Not later than January 1, 2019, the Secretary shall publish a final rule to determine whether the standards then in effect should be amended.

**(B) Administration**

The final rule shall—

(i) contain any amended standards; and

(ii) apply to products manufactured after January 1, 2022.

**(4) Design and performance requirements**

Notwithstanding any other provision of law, any standard established pursuant to this subsection may contain both design and performance requirements.

**(ii) Application date**

Section 6297 of this title applies—

(1) to products for which energy conservation standards are to be established under subsection (l), (u), or (v) of this section beginning on the date on which a final rule is issued by the Secretary, except that any State or local standard prescribed or enacted for the product before the date on which the final rule is issued shall not be preempted until the energy conservation standard established under subsection (l), (u), or (v) of this section for the product takes effect; and

(2) to products for which energy conservation standards are established under subsections (w) through (hh) of this section on August 8, 2005, except that any State or local standard prescribed or enacted before August 8, 2005, shall not be preempted until the energy conservation standards established under subsections (w) through (hh) of this section take effect.

(Pub. L. 94-163, title III, §325, Dec. 22, 1975, 89 Stat. 923; Pub. L. 94-385, title I, §161, Aug. 14, 1976, 90 Stat. 1140; Pub. L. 95-619, title IV, §422, Nov. 9, 1978, 92 Stat. 3259; Pub. L. 100-12, §5, Mar. 17, 1987, 101 Stat. 107; Pub. L. 100-357, §2(e), June 28, 1988, 102 Stat. 673; Pub. L. 102-486, title I, §123(f), Oct. 24, 1992, 106 Stat. 2824; Pub. L. 105-388, §5(a)(5), Nov. 13, 1998, 112 Stat. 3478; Pub. L. 109-58, title I, §135(c), Aug. 8, 2005, 119 Stat.

628; Pub. L. 110-140, title III, §§301(c), 303-305(a), 306(a), 307, 308(a), 309-311(a), 316(c)(2), (d), 321(a)(3), 322(b), 324(e), Dec. 19, 2007, 121 Stat. 1550, 1552, 1553, 1556, 1559-1561, 1563, 1573, 1577, 1588, 1593.)

## REFERENCES IN TEXT

This chapter, referred to in subsecs. (f)(4)(D), (j)(3)(A)(iii), (k)(3)(A)(iii), and (ff)(6)(A), was in the original "this Act", meaning Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, known as the Energy Policy and Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

Subpar. (C) of section 6294(a)(2) of this title, referred to in subsec. (i)(5), was redesignated (D) and a new subpar. (C) was added by Pub. L. 110-140, title III, §324(d), Dec. 19, 2007, 121 Stat. 1593.

Paragraph (19) of section 6292(a) of this title, referred to in subsec. (l)(1), (2), was redesignated (20) and a new par. (19) was added by Pub. L. 110-140, title III, §324(b), Dec. 19, 2007, 121 Stat. 1593.

Subsection (i), referred to in subsec. (l)(4)(F)(ii)(I), was amended by Pub. L. 110-140, title III, §322(b), Dec. 19, 2007, 121 Stat. 1588, by striking out par. (1) and adding a new par. (1), and as so amended, subsec. (i)(1)(A) does not relate to maximum wattage requirements. However, provisions similar to those contained in former subsec. (i)(1)(A) are now contained in subsec. (i)(1)(B). See 2007 Amendment notes below.

## AMENDMENTS

2007—Subsec. (b)(4). Pub. L. 110-140, §311(a)(3), added par. (4).

Subsec. (f). Pub. L. 110-140, §303(1), inserted "and boilers" after "furnaces" in heading.

Subsec. (f)(3), (4). Pub. L. 110-140, §303(2), (3), added par. (3) and redesignated former par. (3) as (4).

Subsec. (f)(4)(D). Pub. L. 110-140, §304, substituted "not later than December 31, 2013, the Secretary shall" for "the Secretary may".

Subsec. (g)(9), (10). Pub. L. 110-140, §311(a)(2), added pars. (9) and (10).

Subsec. (i). Pub. L. 110-140, §321(a)(3)(A)(i), which directed amendment of subsec. (i) by inserting ", general service incandescent lamps, intermediate base incandescent lamps, candelabra base incandescent lamps," after "fluorescent lamps" in "section heading", was executed by making the insertion in subsec. (i) heading to reflect the probable intent of Congress.

Subsec. (i)(1). Pub. L. 110-140, §322(b), added par. (1) and struck out former par. (1) which related to, in subpar. (A), lamp efficacy, new maximum wattage, and CRI standards for general service fluorescent lamps, general service incandescent lamps, intermediate base incandescent lamps, candelabra base incandescent lamps, and incandescent reflector lamps, in subpar. (B), color rendering index requirements of certain general service or general illumination application lamps, in subpar. (C), maximum wattage of candelabra incandescent lamps and intermediate base incandescent lamps, in subpar. (D), petition for exemption from requirements, in subpar. (E), petition to establish standards, and, in subpar. (F), definition of effective date.

Pub. L. 110-140, §321(a)(3)(A)(ii), in subpar. (A), in introductory provisions, inserted ", general service incandescent lamps, intermediate base incandescent lamps, candelabra base incandescent lamps," after "fluorescent lamps" and ", new maximum wattage," after "lamp efficacy", inserted tables relating to general service incandescent lamps and modified spectrum general service incandescent lamps, added subpars. (B) to (F), and struck out former subpar. (B) which read as follows: "For the purposes of the tables set forth in subparagraph (A), the term 'effective date' means the last day of the month set forth in the table which follows October 24, 1992."

Subsec. (i)(5). Pub. L. 110-140, §321(a)(3)(A)(iii), struck out "and general service incandescent lamps" after "general service fluorescent".

Subsec. (i)(6) to (8). Pub. L. 110-140, §321(a)(3)(A)(iv), (v), added par. (6) and redesignated former pars. (6) and (7) as (7) and (8), respectively.

Subsec. (l)(4). Pub. L. 110-140, §321(a)(3)(B), added par. (4).

Subsec. (m). Pub. L. 110-140, §305(a), added subsec. (m) and struck out former subsec. (m) which related to further rulemaking.

Subsec. (o)(6). Pub. L. 110-140, §306(a), added par. (6).

Subsec. (p)(1) to (3). Pub. L. 110-140, §307, redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out former par. (1) which read as follows: "The Secretary—

"(A) shall publish an advance notice of proposed rulemaking which specifies the type (or class) of covered products to which the rule may apply;

"(B) shall invite interested persons to submit, within 60 days after the date of publication of such advance notice, written presentations of data, views, and arguments in response to such notice; and

"(C) may identify proposed or amended standards that may be prescribed."

Subsec. (p)(4). Pub. L. 110-140, §308(a), added par. (4). Pub. L. 110-140, §307(2), redesignated par. (4) as (3).

Subsec. (u)(1)(E). Pub. L. 110-140, §309(1), inserted heading.

Subsec. (u)(1)(E)(i). Pub. L. 110-140, §309, inserted cl. heading, designated existing provisions as subcl. (I), inserted subcl. heading, substituted "2 years" for "3 years", struck out "battery chargers and" before "external power supplies" in two places, and added subcl. (II).

Subsec. (u)(2) to (5). Pub. L. 110-140, §310(1), redesignated pars. (5) and (6) as (2) and (3), respectively, and struck out former pars. (2) to (4) which related to revision of test procedures and energy conservation standards with respect to covered products that were major sources of standby mode energy consumption, prohibition against proposal of a standard unless applicable test procedures had been issued, and applicability of standard to products manufactured or imported beginning 3 years after the date of issuance, respectively.

Subsec. (u)(6). Pub. L. 110-140, §310(1)(B), redesignated par. (6) as (3).

Pub. L. 110-140, §301(c), added par. (6).

Subsec. (u)(7). Pub. L. 110-140, §301(c), added par. (7).

Subsec. (v). Pub. L. 110-140, §316(d)(1)(A), struck out "Ceiling fans and" before "refrigerated beverage" in heading.

Subsec. (v)(1) to (4). Pub. L. 110-140, §316(d)(1)(B), (C), redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out former par. (1) which read as follows: "Not later than 1 year after August 8, 2005, the Secretary shall prescribe, by rule, test procedures and energy conservation standards for ceiling fans and ceiling fan light kits. If the Secretary sets such standards, the Secretary shall consider exempting or setting different standards for certain product classes for which the primary standards are not technically feasible or economically justified, and establishing separate or exempted product classes for highly decorative fans for which air movement performance is a secondary design feature."

Subsec. (cc)(2). Pub. L. 110-140, §311(a)(1), added par. (2) and struck out former par. (2) which directed the Secretary to publish a final rule not later than Oct. 1, 2009, which would determine whether standards established under par. (1) were to be amended, and directed that such rule was to contain any amendment by the Secretary and be applicable to products manufactured on or after Oct. 1, 2012, and further directed that, if the Secretary did not publish such an amendment, dehumidifiers manufactured on or after Oct. 1, 2012, would have an Energy Factor that would meet or exceed values provided in a table of product capacities and minimum Energy Factors.

Subsec. (ee). Pub. L. 110-140, §316(c)(2), inserted "(other than specialty application mercury vapor lamp ballasts)" before "shall".

Subsec. (ff)(1)(A)(iii), (iv). Pub. L. 110-140, §316(d)(2)(A), redesignated cl. (iv) as (iii), inserted "fans



sold for” before “outdoor” in subcl. (II), and struck out former cl. (iii) which read as follows: “Adjustable speed controls (either more than 1 speed or variable speed).”

Subsec. (ff)(4)(C). Pub. L. 110-140, §316(d)(2)(B)(i), substituted “date specified in subparagraph (A)” for “date specified in subparagraph (B)” in introductory provisions.

Subsec. (ff)(4)(C)(ii). Pub. L. 110-140, §316(d)(2)(B)(ii), added cl. (ii) and struck out former cl. (ii) which read as follows: “shall include the lamps described in clause (i) in the ceiling fan lighting kits.”

Subsec. (ff)(6)(B) to (D). Pub. L. 110-140, §316(d)(2)(C), redesignated subpars. (C) and (D) as cls. (i) and (ii), respectively, of subpar. (B).

Subsec. (ff)(7). Pub. L. 110-140, §316(d)(2)(D), substituted “established under section 6294” for “established under section 6297”.

Subsec. (gg). Pub. L. 110-140, §310(3), added subsec. (gg). Former subsec. (gg) redesignated (hh).

Subsec. (hh). Pub. L. 110-140, §324(e)(2), added subsec. (hh). Former subsec. (hh) redesignated (ii).

Pub. L. 110-140, §310(2), (4), redesignated subsec. (gg) as (hh) and substituted “(gg)” for “(ff)” in two places in par. (2).

Subsec. (ii). Pub. L. 110-140, §324(e)(1), (3), redesignated subsec. (hh) as (ii) and substituted “(hh)” for “(gg)” in two places in par. (2).

2005—Subsec. (f)(3)(D). Pub. L. 109-58, §135(c)(1), added subpar. (D).

Subsec. (g)(6)(B). Pub. L. 109-58, §135(c)(2)(A), inserted “and labeled” after “designed”.

Subsec. (g)(8). Pub. L. 109-58, §135(c)(2)(B), added par. (8).

Subsec. (o)(5). Pub. L. 109-58, §135(c)(3), added par. (5). Subsecs. (u) to (gg). Pub. L. 109-58, §135(c)(4), added subsecs. (u) to (gg).

1998—Subsec. (e)(4)(A). Pub. L. 105-388, §5(a)(5)(A), substituted “paragraph” for “paragraphs”.

Subsec. (g). Pub. L. 105-388, §5(a)(5)(B), substituted “ballasts” for “ballasts;” in heading.

1992—Subsecs. (i) to (k). Pub. L. 102-486, §123(f)(2), added subsecs. (i) to (k). Former subsecs. (i) to (k) redesignated (l) to (n), respectively.

Subsec. (l). Pub. L. 102-486, §123(f)(1), redesignated subsec. (i) as (l). Former subsec. (l) redesignated (o).

Subsec. (l)(1). Pub. L. 102-486, §123(f)(3), substituted “paragraph (19)” for “paragraph (14)” and “subsections (o) and (p)” for “subsections (l) and (m)”.

Subsec. (l)(2). Pub. L. 102-486, §123(f)(3)(A), substituted “(19)” for “(14)”.

Subsec. (l)(3). Pub. L. 102-486, §123(f)(3)(B), substituted “(o) and (p)” for “(l) and (m)”.

Subsec. (m). Pub. L. 102-486, §123(f)(1), (4), redesignated subsec. (j) as (m) and substituted “(i)” for “(h)” in introductory provisions. Former subsec. (m) redesignated (p).

Subsec. (n). Pub. L. 102-486, §123(f)(1), redesignated subsec. (k) as (n). Former subsec. (n) redesignated (q).

Subsec. (n)(1). Pub. L. 102-486, §123(f)(5)(A), substituted “, and in paragraphs (13) and (14)” for “and in paragraph (13)” and “subsections (b) through (i)” for “subsections (b) through (h)”.

Subsec. (n)(2)(C). Pub. L. 102-486, §123(f)(5)(B), substituted “subsection (o)(2)(B)(i)(II)” for “subsection (l)(2)(B)(i)(II)”.

Subsec. (n)(3)(B). Pub. L. 102-486, §123(f)(5)(C), inserted “general service fluorescent lamps, incandescent reflector lamps,” after “fluorescent lamp ballasts,”.

Subsec. (o). Pub. L. 102-486, §123(f)(1), redesignated subsec. (l) as (o). Former subsec. (o) redesignated (r).

Subsec. (o)(1). Pub. L. 102-486, §123(f)(6)(A), inserted “or, in the case of showerheads, faucets, water closets, or urinals, water use,” after “energy use,”.

Subsec. (o)(2)(A). Pub. L. 102-486, §123(f)(6)(B), inserted “, or, in the case of showerheads, faucets, water closets, or urinals, water efficiency,” after “energy efficiency”.

Subsec. (o)(2)(B)(i)(III). Pub. L. 102-486, §123(f)(6)(C), inserted “, or as applicable, water,” after “energy”.

Subsec. (o)(2)(B)(i)(VI). Pub. L. 102-486, §123(f)(6)(D), inserted “and water” after “energy”.

Subsec. (o)(2)(B)(iii). Pub. L. 102-486, §123(f)(6)(E), substituted “energy, and as applicable, water, savings” for “energy savings”.

Subsec. (o)(3)(B). Pub. L. 102-486, §123(f)(6)(F), inserted “, in the case of showerheads, faucets, water closets, or urinals, water, or” after “energy or”.

Subsec. (p). Pub. L. 102-486, §123(f)(1), redesignated subsec. (m) as (p). Former subsec. (p) redesignated (s).

Subsec. (p)(3)(A). Pub. L. 102-486, §123(f)(7), substituted “subsection (o)(2)” for “subsection (l)(2)” and “subsection (o)(4)” for “subsection (l)(4)”.

Subsecs. (q) to (t). Pub. L. 102-486, §123(f)(1), redesignated subsecs. (n) to (q) as (q) to (t), respectively.

1988—Subsec. (e)(1)(C). Pub. L. 100-357, §2(e)(3), inserted “Volume” after “Rated Storage”.

Subsec. (g). Pub. L. 100-357, §2(e)(1)(A), inserted “, fluorescent lamp ballasts;” in heading.

Subsec. (g)(5) to (7). Pub. L. 100-357, §2(e)(1)(B), added pars. (5) to (7).

Subsec. (i)(1), (2). Pub. L. 100-357, §2(e)(2), substituted “(14)” for “(13)”.

Subsec. (j)(B). Pub. L. 100-357, §2(e)(4)(A), inserted “fluorescent lamp ballasts,” after “clothes dryers,” and substituted “heating” for “hearing”.

Subsec. (k)(1). Pub. L. 100-357, §2(e)(4)(B)(i), inserted “and in paragraph (13)” after “(11)”.

Subsec. (k)(3)(B). Pub. L. 100-357, §2(e)(4)(B)(ii), inserted “fluorescent lamp ballasts,” after “clothes dryers,”.

1987—Pub. L. 100-12 amended section generally, revising and restating as subsecs. (a) to (q) provisions formerly contained in subsecs. (a) to (j).

1978—Subsec. (a). Pub. L. 95-619 substituted provisions authorizing Secretary to prescribe an energy efficiency standard for each type of covered product specified in section 6292(a)(1) to (13) of this title, authorizing such prescription for any type of covered product specified in section 6292(a)(14) of this title where certain conditions are found to exist, and requiring publication of a list of those types of covered products considered subject to prescribed standards in the Federal Register not later than two years after Nov. 9, 1978, for provisions requiring the Administrator, meaning the Administrator of the Federal Energy Administration, to direct the National Bureau of Standards to develop an energy efficiency improvement target for each type of covered product listed in section 6292(a)(1) to (10) of this title, requiring prescription of such a target by the Administrator not later than ninety days after Aug. 14, 1976, requiring such targets be designed to exceed by 1980 by at least twenty percent the aggregate energy efficiency of the covered products as manufactured in 1972, requiring similar energy efficiency targets be prescribed for covered products specified in section 6292(a)(11) to (13) of this title not later than one year after Aug. 14, 1976, authorizing the Administrator to modify periodically any established targets, requiring the manufacturers of any covered products to submit reports as requested by the Administrator to help in establishing and reaching such targets, authorizing the Administrator to commence proceedings in certain situations to prescribe initial or revised targets, specifying when improvements of energy efficiency are economically justified, and authorizing the Attorney General to determine any negative effects on competition so as to make certain improvements economically unjustified.

Subsec. (b). Pub. L. 95-619 substituted provisions specifying preconditions for prescription of a standard for a type or class of covered products for provisions specifying the procedure to be followed in prescribing energy efficiency standards.

Subsec. (c). Pub. L. 95-619 substituted provisions requiring energy efficiency standards for each type of covered products be designed to achieve the maximum improvement in energy efficiency which the Secretary determines feasible and justified and requiring such standards be phased in over a period not to exceed five years for provisions relating to the prescription of test procedures and the requirements necessary to meet minimum energy efficiency levels.

Subsec. (d). Pub. L. 95-619 substituted provisions relating to a determination by the Secretary of the economic justification of any particular energy efficiency standard and a determination by the Attorney General of the impact on competition of any proposed standard for provisions relating to labeling rules.

Subsecs. (e) to (j). Pub. L. 95-619 added subsecs. (e) to (j).

1976—Subsec. (a)(1)(A). Pub. L. 94-385, §161(a), transferred authority to determine energy targets from the Administrator to the National Bureau of Standards and substituted 90 days after August 14, 1976, for 180 days after December 22, 1975, for the promulgation of rules by the Administrator.

Subsec. (a)(2). Pub. L. 94-385, §161(b), transferred authority to determine energy targets from the Administrator to the National Bureau of Standards and substituted one year after August 14, 1976, for one year after December 22, 1975, for the promulgation of rules by the Administrator.

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

#### LIGHTING TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM

Pub. L. 110-140, title III, §321(g), Dec. 19, 2007, 121 Stat. 1586, provided that:

“(1) IN GENERAL.—The Secretary [of Energy] may carry out a lighting technology research and development program—

“(A) to support the research, development, demonstration, and commercial application of lamps and related technologies sold, offered for sale, or otherwise made available in the United States; and

“(B) to assist manufacturers of general service lamps in the manufacturing of general service lamps that, at a minimum, achieve the wattage requirements imposed as a result of the amendments made by subsection (a) [amending this section and sections 6291 and 6292 of this title].

“(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection \$10,000,000 for each of fiscal years 2008 through 2013.

“(3) TERMINATION OF AUTHORITY.—The program under this subsection shall terminate on September 30, 2015.”

### § 6296. Requirements of manufacturers

#### (a) In general

Each manufacturer of a covered product to which a rule under section 6294 of this title applies shall provide a label which meets, and is displayed in accordance with, the requirements of such rule. If such manufacturer or any distributor, retailer, or private labeler of such product advertises such product in a catalog from which it may be purchased, such catalog shall contain all information required to be displayed on the label, except as otherwise provided by rule of the Commission. The preceding sentence shall not require that a catalog contain information respecting a covered product if the distribution of such catalog commenced before the effective date of the labeling rule under section 6294 of this title applicable to such product.

#### (b) Notification

(1) Each manufacturer of a covered product to which a rule under section 6294 of this title applies shall notify the Secretary or the Commission—

(A) not later than 60 days after the date such rule takes effect, of the models in current production (and starting serial numbers of those models) to which such rule applies; and

(B) prior to commencement of production, of all models subsequently produced (and starting serial numbers of those models) to which such rule applies.

(2) If requested by the Secretary or Commission, the manufacturer of a covered product to which a rule under section 6294 of this title applies shall provide, within 30 days of the date of the request, the data from which the information included on the label and required by the rule was derived. Data shall be kept on file by the manufacturer for a period specified in the rule.

(3) When requested—

(A) by the Secretary for purposes of ascertaining whether a product subject to a standard established in or prescribed under section 6295 of this title is in compliance with that standard, or

(B) by the Commission for purposes of ascertaining whether the information set out on a label of a product, as required under section 6294 of this title, is accurate,

each manufacturer of such a product shall supply at his expense a reasonable number of such covered products to any laboratory designated by the Secretary or the Commission, as the case may be. Any reasonable charge levied by the laboratory for such testing shall be borne by the United States, if and to the extent provided in appropriation Acts.

(4) Each manufacturer of a covered product to which a rule under section 6294 of this title applies shall annually, at a time specified by the Commission, supply to the Commission relevant data respecting energy consumption or water use developed in accordance with the test procedures applicable to such product under section 6293 of this title.

(5) A rule under section 6293, 6294, or 6295 of this title may require the manufacturer or his agent to permit a representative designated by the Commission or the Secretary to observe any testing required by this part and inspect the results of such testing.

#### (c) Deadline

Each manufacturer shall use labels reflecting the range data required to be disclosed under section 6294(c)(1)(B) of this title after the expiration of 60 days following the date of publication of any revised table of ranges unless the rule under section 6294 of this title provides for a later date. The Commission may not require labels be changed to reflect revised tables of ranges more often than annually.

#### (d) Information requirements

(1) For purposes of carrying out this part, the Secretary may require, under this part or other provision of law administered by the Secretary, each manufacturer of a covered product to submit information or reports to the Secretary with respect to energy efficiency, energy use, or, in the case of showerheads, faucets, water closets, and urinals, water use of such covered product and the economic impact of any proposed

energy conservation standard, as the Secretary determines may be necessary to establish and revise test procedures, labeling rules, and energy conservation standards for such product and to insure compliance with the requirements of this part. In making any determination under this paragraph, the Secretary shall consider existing public sources of information, including nationally recognized certification programs of trade associations.

(2) The Secretary shall exercise authority under this section in a manner designed to minimize unnecessary burdens on manufacturers of covered products.

(3) The provisions of section 796(d) of title 15 shall apply with respect to information obtained under this subsection to the same extent and in the same manner as they apply with respect to energy information obtained under section 796 of title 15.

(Pub. L. 94-163, title III, § 326, Dec. 22, 1975, 89 Stat. 926; Pub. L. 95-619, title IV, § 425(d), title VI, § 691(b)(2), Nov. 9, 1978, 92 Stat. 3265, 3288; Pub. L. 100-12, §§ 6, 11(a)(2), (b)(3), Mar. 17, 1987, 101 Stat. 117, 125; Pub. L. 102-486, title I, § 123(g), Oct. 24, 1992, 106 Stat. 2829.)

#### AMENDMENTS

1992—Subsec. (b)(4). Pub. L. 102-486, § 123(g)(1), inserted “or water use” after “consumption”.

Subsec. (d)(1). Pub. L. 102-486, § 123(g)(2), substituted “, energy use, or, in the case of showerheads, faucets, water closets, and urinals, water use” for “or energy use”.

1987—Subsec. (a). Pub. L. 100-12, § 11(b)(3)(A), inserted heading.

Subsec. (b). Pub. L. 100-12, § 11(b)(3)(B), inserted heading.

Subsec. (b)(3)(A). Pub. L. 100-12, § 11(a)(2), inserted “established in or” before “prescribed under”.

Subsec. (c). Pub. L. 100-12, § 11(b)(3)(C), inserted heading.

Subsec. (d). Pub. L. 100-12, § 6, inserted “Information requirements” as heading and amended text generally. Prior to amendment, text read as follows: “For purposes of carrying out this part, the Secretary may require, under authority otherwise available to him under this part or other provisions of law administered by him, each manufacturer of covered products to submit such information or reports of any kind or nature directly to the Secretary with respect to energy efficiency of such covered products, and with respect to the economic impact of any proposed energy efficiency standard, as the Secretary determines may be necessary to establish and revise test procedures, labeling rules, and energy efficiency standards for such products and to insure compliance with the requirements of this part. The provisions of section 796(d) of title 15 shall apply with respect to information obtained under this subsection to the same extent and in the same manner as it applies with respect to energy information obtained under section 796 of title 15.”

1978—Subsec. (b)(1). Pub. L. 95-619, § 425(d)(2), inserted requirement that manufacturers of covered products give notice to the Secretary of models affected by rules promulgated under section 6294 of this title and expanded the notice requirement itself to include models manufactured more than sixty days after the date a particular rule takes effect.

Subsec. (b)(2). Pub. L. 95-619, § 691(b)(2), substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration.

Subsec. (b)(3). Pub. L. 95-619, § 425(d)(3), authorized Secretary to request submission of covered products for purposes of ascertaining whether a particular product complies with standards under section 6295 of this title

and also authorized Secretary to designate testing laboratories for the submitted products.

Subsec. (b)(5). Pub. L. 95-619, § 691(b)(2), substituted “Secretary” for “Administrator”.

Subsec. (d). Pub. L. 95-619, § 425(d)(1), added subsec. (d).

#### § 6297. Effect on other law

##### (a) Preemption of testing and labeling requirements

(1) Effective on March 17, 1987, this part supersedes any State regulation insofar as such State regulation provides at any time for the disclosure of information with respect to any measure of energy consumption or water use of any covered product if—

(A) such State regulation requires testing or the use of any measure of energy consumption, water use, or energy descriptor in any manner other than that provided under section 6293 of this title; or

(B) such State regulation requires disclosure of information with respect to the energy use, energy efficiency, or water use of any covered product other than information required under section 6294 of this title.

(2) For purposes of this section, the following definitions apply:

(A) The term “State regulation” means a law, regulation, or other requirement of a State or its political subdivisions. With respect to showerheads, faucets, water closets, and urinals, such term shall also mean a law, regulation, or other requirement of a river basin commission that has jurisdiction within a State.

(B) The term “river basin commission” means—

(i) a commission established by interstate compact to apportion, store, regulate, or otherwise manage or coordinate the management of the waters of a river basin; and

(ii) a commission established under section 1962b(a) of this title.

##### (b) General rule of preemption for energy conservation standards before Federal standard becomes effective for product

Effective on March 17, 1987, and ending on the effective date of an energy conservation standard established under section 6295 of this title for any covered product, no State regulation, or revision thereof, concerning the energy efficiency, energy use, or water use of the covered product shall be effective with respect to such covered product, unless the State regulation or revision—

(1)(A) was prescribed or enacted before January 8, 1987, and is applicable to products before January 3, 1988, or in the case of any portion of any regulation which establishes requirements for fluorescent lamp ballasts, was prescribed or enacted before June 28, 1988, or in the case of any portion of any regulation which establishes requirements for fluorescent or incandescent lamps, flow rate requirements for showerheads or faucets, or water use requirements for water closets or urinals, was prescribed or enacted before October 24, 1992; or

(B) in the case of any portion of any regulation that establishes requirements for general

service incandescent lamps, intermediate base incandescent lamps, or candelabra base lamps, was enacted or adopted by the State of California or Nevada before December 4, 2007, except that—

(i) the regulation adopted by the California Energy Commission with an effective date of January 1, 2008, shall only be effective until the effective date of the Federal standard for the applicable lamp category under subparagraphs (A), (B), and (C) of section 6295(i)(1) of this title;

(ii) the States of California and Nevada may, at any time, modify or adopt a State standard for general service lamps to conform with Federal standards with effective dates no earlier than 12 months prior to the Federal effective dates prescribed under subparagraphs (A), (B), and (C) of section 6295(i)(1) of this title, at which time any prior regulations adopted by the State of California or Nevada shall no longer be effective; and

(iii) all other States may, at any time, modify or adopt a State standard for general service lamps to conform with Federal standards and effective dates.

(2) is a State procurement regulation described in subsection (e) of this section;

(3) is a regulation described in subsection (f)(1) of this section or is prescribed or enacted in a building code for new construction described in subsection (f)(2) of this section;

(4) is a regulation prohibiting the use in pool heaters of a constant burning pilot, or is a regulation (or portion thereof) regulating fluorescent lamp ballasts other than those to which paragraph (5) of section 6295(g) of this title is applicable, or is a regulation (or portion thereof) regulating fluorescent or incandescent lamps other than those to which section 6295(i) of this title is applicable, or is a regulation (or portion thereof) regulating showerheads or faucets other than those to which section 6295(j) of this title is applicable or regulating lavatory faucets (other than metering faucets) for installation in public places, or is a regulation (or portion thereof) regulating water closets or urinals other than those to which section 6295(k) of this title is applicable;

(5) is a regulation described in subsection (d)(5)(B) of this section for which a waiver has been granted under subsection (d) of this section;

(6) is a regulation effective on or after January 1, 1992, concerning the energy efficiency or energy use of television sets; or

(7) is a regulation (or portion thereof) concerning the water efficiency or water use of low consumption flushometer valve water closets.

**(c) General rule of preemption for energy conservation standards when Federal standard becomes effective for product**

Except as provided in section 6295(b)(3)(A)(ii) of this title, subparagraphs (B) and (C) of section 6295(j)(3) of this title, and subparagraphs (B) and (C) of section 6295(k)(3) of this title and effective on the effective date of an energy conservation standard established in or prescribed under sec-

tion 6295 of this title for any covered product, no State regulation concerning the energy efficiency, energy use, or water use of such covered product shall be effective with respect to such product unless the regulation—

(1) is a regulation described in paragraph (2) or (4) of subsection (b) of this section, except that a State regulation (or portion thereof) regulating fluorescent lamp ballasts other than those to which paragraph (5) of section 6295(g) of this title is applicable shall be effective only until the effective date of a standard that is prescribed by the Secretary under paragraph (7) of such section and is applicable to such ballasts, except that a State regulation (or portion thereof) regulating fluorescent or incandescent lamps other than those for which section 6295(i) of this title is applicable shall be effective only until the effective date of a standard that is prescribed by the Secretary and is applicable to such lamps;

(2) is a regulation which has been granted a waiver under subsection (d) of this section;

(3) is in a building code for new construction described in subsection (f)(3) of this section;

(4) is a regulation concerning the water use of lavatory faucets adopted by the State of New York or the State of Georgia before October 24, 1992;

(5) is a regulation concerning the water use of lavatory or kitchen faucets adopted by the State of Rhode Island prior to October 24, 1992;

(6) is a regulation (or portion thereof) concerning the water efficiency or water use of gravity tank-type low consumption water closets for installation in public places, except that such a regulation shall be effective only until January 1, 1997; or

(7)(A) is a regulation concerning standards for commercial prerinse spray valves adopted by the California Energy Commission before January 1, 2005; or

(B) is an amendment to a regulation described in subparagraph (A) that was developed to align California regulations with changes in American Society for Testing and Materials Standard F2324;

(8)(A) is a regulation concerning standards for pedestrian modules adopted by the California Energy Commission before January 1, 2005; or

(B) is an amendment to a regulation described in subparagraph (A) that was developed to align California regulations to changes in the Institute for Transportation Engineers standards, entitled "Performance Specifications: Pedestrian Traffic Control Signal Indications"; and

(9) is a regulation concerning metal halide lamp fixtures adopted by the California Energy Commission on or before January 1, 2011, except that—

(A) if the Secretary fails to issue a final rule within 180 days after the deadlines for rulemakings in section 6295(hh) of this title, notwithstanding any other provision of this section, preemption shall not apply to a regulation concerning metal halide lamp fixtures adopted by the California Energy Commission—

(i) on or before July 1, 2015, if the Secretary fails to meet the deadline specified in section 6295(hh)(2) of this title; or

(ii) on or before July 1, 2022, if the Secretary fails to meet the deadline specified in section 6295(hh)(3) of this title.

**(d) Waiver of Federal preemption**

(1)(A) Any State or river basin commission with a State regulation which provides for any energy conservation standard or other requirement with respect to energy use, energy efficiency, or water use for any type (or class) of covered product for which there is a Federal energy conservation standard under section 6295 of this title may file a petition with the Secretary requesting a rule that such State regulation become effective with respect to such covered product.

(B) Subject to paragraphs (2) through (5), the Secretary shall, within the period described in paragraph (2) and after consideration of the petition and the comments of interested persons, prescribe such rule if the Secretary finds (and publishes such finding) that the State or river basin commission has established by a preponderance of the evidence that such State regulation is needed to meet unusual and compelling State or local energy or water interests.

(C) For purposes of this subsection, the term “unusual and compelling State or local energy or water interests” means interests which—

(i) are substantially different in nature or magnitude than those prevailing in the United States generally; and

(ii) are such that the costs, benefits, burdens, and reliability of energy or water savings resulting from the State regulation make such regulation preferable or necessary when measured against the costs, benefits, burdens, and reliability of alternative approaches to energy or water savings or production, including reliance on reasonably predictable market-induced improvements in efficiency of all products subject to the State regulation.

The factors described in clause (ii) shall be evaluated within the context of the State’s energy plan and forecast, and, with respect to a State regulation for which a petition has been submitted to the Secretary which provides for any energy conservation standard or requirement with respect to water use of a covered product, within the context of the water supply and groundwater management plan, water quality program, and comprehensive plan (if any) of the State or river basin commission for improving, developing, or conserving a waterway affected by water supply development.

(2) The Secretary shall give notice of any petition filed under paragraph (1)(A) and afford interested persons a reasonable opportunity to make written comments, including rebuttal comments, thereon. The Secretary shall, within the 6-month period beginning on the date on which any such petition is filed, deny such petition or prescribe the requested rule, except that the Secretary may publish a notice in the Federal Register extending such period to a date certain but no longer than one year after the date on which the petition was filed. Such notice shall include the reasons for delay. In the case of any denial of a petition under this subsection, the Secretary shall publish in the Federal Register notice of, and the reasons for, such denial.

(3) The Secretary may not prescribe a rule under this subsection if the Secretary finds (and publishes such finding) that interested persons have established, by a preponderance of the evidence, that such State regulation will significantly burden manufacturing, marketing, distribution, sale, or servicing of the covered product on a national basis. In determining whether to make such finding, the Secretary shall evaluate all relevant factors, including—

(A) the extent to which the State regulation will increase manufacturing or distribution costs of manufacturers, distributors, and others;

(B) the extent to which the State regulation will disadvantage smaller manufacturers, distributors, or dealers or lessen competition in the sale of the covered product in the State;

(C) the extent to which the State regulation would cause a burden to manufacturers to redesign and produce the covered product type (or class), taking into consideration the extent to which the regulation would result in a reduction—

(i) in the current models, or in the projected availability of models, that could be shipped on the effective date of the regulation to the State and within the United States; or

(ii) in the current or projected sales volume of the covered product type (or class) in the State and the United States; and

(D) the extent to which the State regulation is likely to contribute significantly to a proliferation of State appliance efficiency requirements and the cumulative impact such requirements would have.

(4) The Secretary may not prescribe a rule under this subsection if the Secretary finds (and publishes such finding) that interested persons have established, by a preponderance of the evidence, that the State regulation is likely to result in the unavailability in the State of any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the State at the time of the Secretary’s finding, except that the failure of some classes (or types) to meet this criterion shall not affect the Secretary’s determination of whether to prescribe a rule for other classes (or types).

(5) No final rule prescribed by the Secretary under this subsection may—

(A) permit any State regulation to become effective with respect to any covered product manufactured within three years after such rule is published in the Federal Register or within five years if the Secretary finds that such additional time is necessary due to the substantial burdens of retooling, redesign, or distribution needed to comply with the State regulation; or

(B) become effective with respect to a covered product manufactured before the earliest possible effective date specified in section 6295 of this title for the initial amendment of the energy conservation standard established in such section for the covered product; except that such rule may become effective before

such date if the Secretary finds (and publishes such finding) that, in addition to the other requirements of this subsection the State has established, by a preponderance of the evidence, that—

(i) there exists within the State an energy emergency condition or, if the State regulation provides for an energy conservation standard or other requirement with respect to the water use of a covered product for which there is a Federal energy conservation standard under subsection (j) or (k) of section 6295 of this title, a water emergency condition, which—

(I) imperils the health, safety, and welfare of its residents because of the inability of the State or utilities within the State to provide adequate quantities of gas or electric energy or, in the case of a water emergency condition, water or wastewater treatment, to its residents at less than prohibitive costs; and

(II) cannot be substantially alleviated by the importation of energy or, in the case of a water emergency condition, by the importation of water, or by the use of interconnection agreements; and

(ii) the State regulation is necessary to alleviate substantially such condition.

(6) In any case in which a State is issued a rule under paragraph (1) with respect to a covered product and subsequently a Federal energy conservation standard concerning such product is amended pursuant to section 6295 of this title, any person subject to such State regulation may file a petition with the Secretary requesting the Secretary to withdraw the rule issued under paragraph (1) with respect to such product in such State. The Secretary shall consider such petition in accordance with the requirements of paragraphs (1), (3), and (4), except that the burden shall be on the petitioner to show by a preponderance of the evidence that the rule received by the State under paragraph (1) should be withdrawn as a result of the amendment to the Federal standard. If the Secretary determines that the petitioner has shown that the rule issued by the State should be so withdrawn, the Secretary shall withdraw it.

**(e) Exception for certain State procurement standards**

Any State regulation which sets forth procurement standards for a State (or political subdivision thereof) shall not be superseded by the provisions of this part if such standards are more stringent than the corresponding Federal energy conservation standards.

**(f) Exception for certain building code requirements**

(1) A regulation or other requirement enacted or prescribed before January 8, 1987, that is contained in a State or local building code for new construction concerning the energy efficiency or energy use of a covered product is not superseded by this part until the effective date of the energy conservation standard established in or prescribed under section 6295 of this title for such covered product.

(2) A regulation or other requirement, or revision thereof, enacted or prescribed on or after

January 8, 1987, that is contained in a State or local building code for new construction concerning the energy efficiency or energy use of a covered product is not superseded by this part until the effective date of the energy conservation standard established in or prescribed under section 6295 of this title for such covered product if the code does not require that the energy efficiency of such covered product exceed—

(A) the applicable minimum efficiency requirement in a national voluntary consensus standard; or

(B) the minimum energy efficiency level in a regulation or other requirement of the State meeting the requirements of subsection (b)(1) or (b)(5) of this section,

whichever is higher.

(3) Effective on the effective date of an energy conservation standard for a covered product established in or prescribed under section 6295 of this title, a regulation or other requirement contained in a State or local building code for new construction concerning the energy efficiency or energy use of such covered product is not superseded by this part if the code complies with all of the following requirements:

(A) The code permits a builder to meet an energy consumption or conservation objective for a building by selecting items whose combined energy efficiencies meet the objective.

(B) The code does not require that the covered product have an energy efficiency exceeding the applicable energy conservation standard established in or prescribed under section 6295 of this title, except that the required efficiency may exceed such standard up to the level required by a regulation of that State for which the Secretary has issued a rule granting a waiver under subsection (d) of this section.

(C) The credit to the energy consumption or conservation objective allowed by the code for installing covered products having energy efficiencies exceeding such energy conservation standard established in or prescribed under section 6295 of this title or the efficiency level required in a State regulation referred to in subparagraph (B) is on a one-for-one equivalent energy use or equivalent cost basis.

(D) If the code uses one or more baseline building designs against which all submitted building designs are to be evaluated and such baseline building designs contain a covered product subject to an energy conservation standard established in or prescribed under section 6295 of this title, the baseline building designs are based on the efficiency level for such covered product which meets but does not exceed such standard or the efficiency level required by a regulation of that State for which the Secretary has issued a rule granting a waiver under subsection (d) of this section.

(E) If the code sets forth one or more optional combinations of items which meet the energy consumption or conservation objective, for every combination which includes a covered product the efficiency of which exceeds either standard or level referred to in subparagraph (D), there also shall be at least one combination which includes such covered product the efficiency of which does not exceed such standard or level by more than 5 percent, ex-

cept that at least one combination shall include such covered product the efficiency of which meets but does not exceed such standard.

(F) The energy consumption or conservation objective is specified in terms of an estimated total consumption of energy (which may be calculated from energy loss- or gain-based codes) utilizing an equivalent amount of energy (which may be specified in units of energy or its equivalent cost).

(G) The estimated energy use of any covered product permitted or required in the code, or used in calculating the objective, is determined using the applicable test procedures prescribed under section 6293 of this title, except that the State may permit the estimated energy use calculation to be adjusted to reflect the conditions of the areas where the code is being applied if such adjustment is based on the use of the applicable test procedures prescribed under section 6293 of this title or other technically accurate documented procedure.

(4)(A) Subject to subparagraph (B), a State or local government is not required to submit a petition to the Secretary in order to enforce or apply its building code or to establish that the code meets the conditions set forth in this subsection.

(B) If a building code requires the installation of covered products with efficiencies exceeding both the applicable Federal standard established in or prescribed under section 6295 of this title and the applicable standard of such State, if any, that has been granted a waiver under subsection (d) of this section, such requirement of the building code shall not be applicable unless the Secretary has granted a waiver for such requirement under subsection (d) of this section.

**(g) No warranty**

Any disclosure with respect to energy use, energy efficiency, or estimated annual operating cost which is required to be made under the provisions of this part shall not create an express or implied warranty under State or Federal law that such energy efficiency will be achieved or that such energy use or estimated annual operating cost will not be exceeded under conditions of actual use.

(Pub. L. 94-163, title III, §327, Dec. 22, 1975, 89 Stat. 926; Pub. L. 95-619, title IV, §424, Nov. 9, 1978, 92 Stat. 3263; Pub. L. 100-12, §7, Mar. 17, 1987, 101 Stat. 117; Pub. L. 100-357, §2(f), June 28, 1988, 102 Stat. 674; Pub. L. 102-486, title I, §123(h), Oct. 24, 1992, 106 Stat. 2829; Pub. L. 109-58, title I, §135(d), Aug. 8, 2005, 119 Stat. 634; Pub. L. 110-140, title III, §§321(d), 324(f), Dec. 19, 2007, 121 Stat. 1585, 1594.)

AMENDMENTS

2007—Subsec. (b)(1). Pub. L. 110-140, §321(d), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c)(9). Pub. L. 110-140, §324(f), added par. (9).

2005—Subsec. (c)(7), (8). Pub. L. 109-58 added pars. (7) and (8).

1992—Subsec. (a)(1). Pub. L. 102-486, §123(h)(1)(A)–(C), in introductory provisions inserted “or water use” after “energy consumption”, in par. (A) inserted

“; water use,” after “energy consumption”, and in par. (B) substituted “; energy efficiency, or water use” for “or energy efficiency”.

Subsec. (a)(2). Pub. L. 102-486, §123(h)(1)(D), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “For purposes of this section, the term ‘State regulation’ means a law, regulation, or other requirement of a State or its political subdivisions.”

Subsec. (b). Pub. L. 102-486, §123(h)(2)(A), substituted “; energy use, or water use of the covered product” for “or energy use of the covered product”.

Subsec. (b)(1). Pub. L. 102-486, §123(h)(2)(B), inserted before semicolon at end “; or in the case of any portion of any regulation which establishes requirements for fluorescent or incandescent lamps, flow rate requirements for showerheads or faucets, or water use requirements for water closets or urinals, was prescribed or enacted before October 24, 1992”.

Subsec. (b)(4). Pub. L. 102-486, §123(h)(2)(C), inserted before semicolon at end “; or is a regulation (or portion thereof) regulating fluorescent or incandescent lamps other than those to which section 6295(i) of this title is applicable, or is a regulation (or portion thereof) regulating showerheads or faucets other than those to which section 6295(j) of this title is applicable or regulating lavatory faucets (other than metering faucets) for installation in public places, or is a regulation (or portion thereof) regulating water closets or urinals other than those to which section 6295(k) of this title is applicable”.

Subsec. (b)(7). Pub. L. 102-486, §123(h)(2)(D)–(F), added par. (7).

Subsec. (c). Pub. L. 102-486, §123(h)(3)(A), inserted “; subparagraphs (B) and (C) of section 6295(j)(3) of this title, and subparagraphs (B) and (C) of section 6295(k)(3) of this title” after “section 6295(b)(3)(A)(ii) of this title” and substituted “; energy use, or water use” for “or energy use”.

Subsec. (c)(1). Pub. L. 102-486, §123(h)(3)(B) inserted before semicolon at end “; except that a State regulation (or portion thereof) regulating fluorescent or incandescent lamps other than those for which section 6295(i) of this title is applicable shall be effective only until the effective date of a standard that is prescribed by the Secretary and is applicable to such lamps”.

Subsec. (c)(4) to (6). Pub. L. 102-486, §123(h)(3)(C)–(E), added pars. (4) to (6).

Subsec. (d)(1)(A). Pub. L. 102-486, §123(h)(4)(A), inserted “or river basin commission” after “Any State” and substituted “; energy efficiency, or water use” for “or energy efficiency”.

Subsec. (d)(1)(B). Pub. L. 102-486, §123(h)(4)(B), substituted “State or river basin commission has” for “State has” and inserted “or water” after “energy”.

Subsec. (d)(1)(C). Pub. L. 102-486, §123(h)(4)(C), in introductory provisions and cl. (i) inserted “or water” after “energy” wherever appearing and in closing provisions inserted before period at end “; and, with respect to a State regulation for which a petition has been submitted to the Secretary which provides for any energy conservation standard or requirement with respect to water use of a covered product, within the context of the water supply and groundwater management plan, water quality program, and comprehensive plan (if any) of the State or river basin commission for improving, developing, or conserving a waterway affected by water supply development”.

Subsec. (d)(5)(B)(i). Pub. L. 102-486, §123(h)(5), added cl. (i) and struck out former cl. (i) which read as follows: “an energy emergency condition exists within the State which—

“(I) imperils the health, safety, and welfare of its residents because of the inability of the State or utilities within the State to provide adequate quantities of gas or electric energy to its residents at less than prohibitive costs; and

“(II) cannot be substantially alleviated by the importation of energy or the use of interconnection agreements; and”.

1988—Subsec. (b)(1). Pub. L. 100-357, §2(f)(1), inserted before semicolon “; or in the case of any portion of any

regulation which establishes requirements for fluorescent lamp ballasts, was prescribed or enacted before June 28, 1988”.

Subsec. (b)(4). Pub. L. 100-357, §2(f)(2), inserted before semicolon “, or is a regulation (or portion thereof) regulating fluorescent lamp ballasts other than those to which paragraph (5) of section 6295(g) of this title is applicable”.

Subsec. (c)(1). Pub. L. 100-357, §2(f)(3), inserted before semicolon “, except that a State regulation (or portion thereof) regulating fluorescent lamp ballasts other than those to which paragraph (5) of section 6295(g) of this title is applicable shall be effective only until the effective date of a standard that is prescribed by the Secretary under paragraph (7) of such section and is applicable to such ballasts”.

1987—Pub. L. 100-12 amended section generally, revising and restating as subsecs. (a) to (g) provisions formerly contained in subsecs. (a) to (e).

1978—Subsec. (a)(2). Pub. L. 95-619, §424(b), substituted “other requirement” for “similar requirement”.

Subsec. (b). Pub. L. 95-619, §424(a), in par. (1) substituted provisions vesting power to prescribe rules superseding State energy efficiency regulations in the Secretary for provisions vesting such power in the Administrator of the Federal Energy Administration and provided that persons subject to such State regulations were to petition the Secretary for relief therefrom rather than the Administrator, in par. (2) inserted provisions authorizing the superseding of any State regulation prescribed after Jan. 1, 1978 respecting energy use of any type of covered product and authorizing the filing of a petition by the State for exemption from any such superseding, and struck out provision that a State regulation containing a more stringent energy efficiency standard than the corresponding Federal standard would not be superseded, and added pars. (3) to (5).

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

### § 6298. Rules

The Commission and the Secretary may each issue such rules as each deems necessary to carry out the provisions of this part.

(Pub. L. 94-163, title III, §328, Dec. 22, 1975, 89 Stat. 928; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288.)

#### AMENDMENTS

1978—Pub. L. 95-619 substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration.

### § 6299. Authority to obtain information

#### (a) In general

For purposes of carrying out this part, the Commission and the Secretary may each sign and issue subpoenas for the attendance and testimony of witnesses and the production of relevant books, records, papers, and other documents, and may each administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of contumacy by, or refusal to obey a subpoena served, upon any persons subject to this part, the Commission and the Secretary may each seek an order from the district court of the United States for any district in which such person is found or resides or

transacts business requiring such person to appear and give testimony, or to appear and produce documents. Failure to obey any such order is punishable by such court as a contempt thereof.

#### (b) Confidentiality

Any information submitted by any person to the Secretary or the Commission under this part shall not be considered energy information as defined by section 796(e)(1) of title 15 for purposes of any verification examination authorized to be conducted by the Comptroller General under section 6381 of this title.

(Pub. L. 94-163, title III, §329, Dec. 22, 1975, 89 Stat. 928; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 100-12, §11(b)(4), Mar. 17, 1987, 101 Stat. 125.)

#### AMENDMENTS

1987—Pub. L. 100-12 inserted headings for subsecs. (a) and (b).

1978—Pub. L. 95-619 substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration, wherever appearing.

### § 6300. Exports

This part shall not apply to any covered product if (1) such covered product is manufactured, sold, or held for sale for export from the United States (or such product was imported for export), unless such product is in fact distributed in commerce for use in the United States, and (2) such covered product when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such covered product is intended for export.

(Pub. L. 94-163, title III, §330, Dec. 22, 1975, 89 Stat. 928.)

### § 6301. Imports

Any covered product offered for importation in violation of section 6302 of this title shall be refused admission into the customs territory of the United States under rules issued by the Secretary of the Treasury, except that the Secretary of the Treasury may, by such rules, authorize the importation of such covered product upon such terms and conditions (including the furnishing of a bond) as may appear to him appropriate to ensure that such covered product will not violate section 6302 of this title, or will be exported or abandoned to the United States. The Secretary of the Treasury shall prescribe rules under this section not later than 180 days after December 22, 1975.

(Pub. L. 94-163, title III, §331, Dec. 22, 1975, 89 Stat. 928.)

### § 6302. Prohibited acts

#### (a) In general

It shall be unlawful—

(1) for any manufacturer or private labeler to distribute in commerce any new covered product to which a rule under section 6294 of this title applies, unless such covered product is labeled in accordance with such rule;

(2) for any manufacturer, distributor, retailer, or private labeler to remove from any



new covered product or render illegible any label required to be provided with such product under a rule under section 6294 of this title;

(3) for any manufacturer to fail to permit access to, or copying of, records required to be supplied under this part, or fail to make reports or provide other information required to be supplied under this part;

(4) for any person to fail to comply with an applicable requirement of section 6296(a), (b)(2), (b)(3), or (b)(5) of this title;

(5) for any manufacturer or private labeler to distribute in commerce any new covered product which is not in conformity with an applicable energy conservation standard established in or prescribed under this part, except to the extent that the new covered product is covered by a regional standard that is more stringent than the base national standard; or

(6)<sup>1</sup> for any manufacturer or private labeler to knowingly sell a product to a distributor, contractor, or dealer with knowledge that the entity routinely violates any regional standard applicable to the product.

(6)<sup>1</sup> for any manufacturer, distributor, retailer, or private labeler to distribute in commerce an adapter that—

(A) is designed to allow an incandescent lamp that does not have a medium screw base to be installed into a fixture or lampholder with a medium screw base socket; and

(B) is capable of being operated at a voltage range at least partially within 110 and 130 volts.

#### (b) “New covered product” defined

For purposes of this section, the term “new covered product” means a covered product the title of which has not passed to a purchaser who buys such product for purposes other than (1) reselling such product, or (2) leasing such product for a period in excess of one year.

(Pub. L. 94-163, title III, §332, Dec. 22, 1975, 89 Stat. 928; Pub. L. 100-12, §11(a)(3), (b)(5), Mar. 17, 1987, 101 Stat. 125; Pub. L. 110-140, title III, §§306(b), 321(e), Dec. 19, 2007, 121 Stat. 1559, 1586.)

#### AMENDMENTS

2007—Subsec. (a)(4). Pub. L. 110-140, §321(e)(1), which directed the striking out of “or” after semicolon at end, could not be executed after amendment by Pub. L. 110-140, §306(b)(1). See below.

Pub. L. 110-140, §306(b)(1), struck out “or” after semicolon at end.

Subsec. (a)(5). Pub. L. 110-140, §321(e)(2), which directed substitution of “; or” for period at end, could not be executed after amendment by Pub. L. 110-140, §306(b)(2). See below.

Pub. L. 110-140, §306(b)(2), substituted “part, except to the extent that the new covered product is covered by a regional standard that is more stringent than the base national standard; or” for “part.”

Subsec. (a)(6). Pub. L. 110-140, §321(e)(3), added par. (6) relating to prohibition of distribution in commerce of certain adapters.

Pub. L. 110-140, §306(b)(3), added par. (6) relating to sale of a product to a distributor, contractor, or dealer with knowledge that the entity routinely violates a regional standard.

1987—Subsec. (a). Pub. L. 100-12, §11(b)(5)(A), inserted heading.

Subsec. (a)(5). Pub. L. 100-12, §11(a)(3), substituted “energy conservation standard established in or prescribed under” for “energy efficiency standard prescribed under”.

Subsec. (b). Pub. L. 100-12, §11(b)(5)(B), inserted heading.

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

### § 6303. Enforcement

#### (a) In general

Except as provided in subsection (c) of this section, any person who knowingly violates any provision of section 6302 of this title shall be subject to a civil penalty of not more than \$100 for each violation. Such penalties shall be assessed by the Commission, except that penalties for violations of section 6302(a)(3) of this title which relate to requirements prescribed by the Secretary, violations of section 6302(a)(4) of this title which relate to requests of the Secretary under section 6296(b)(2) of this title, or violations of section 6302(a)(5) of this title shall be assessed by the Secretary. Civil penalties assessed under this part may be compromised by the agency or officer authorized to assess the penalty, taking into account the nature and degree of the violation and the impact of the penalty upon a particular respondent. Each violation of paragraph (1), (2), or (5) of section 6302(a) of this title shall constitute a separate violation with respect to each covered product, and each day of violation of section 6302(a)(3) or (4) of this title shall constitute a separate violation.

#### (b) “Knowingly” defined

As used in subsection (a) of this section, the term “knowingly” means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care.

#### (c) Special rule

It shall be an unfair or deceptive act or practice in or affecting commerce (within the meaning of section 45(a)(1) of title 15) for any person to violate section 6293(c) of this title, except to the extent that such violation is prohibited under the provisions of section 6302(a)(1) of this title, in which case such provisions shall apply.

#### (d) Procedure for assessing penalty

(1) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect in writing within 30 days after the date of receipt of such notice to have the procedures of paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

(2)(A) Unless an election is made within 30 calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess

<sup>1</sup> So in original. Two pars. (6) have been enacted.

the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5 before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

(B) Any person against whom a penalty is assessed under this paragraph may, within 60 calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty, by order, after the date of the receipt of the notice under paragraph (1) of the proposed penalty.

(B) If the civil penalty has not been paid within 60 calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

(C) Any election to have this paragraph apply may not be revoked except with the consent of the Secretary.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2), or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3), the Secretary shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review.

(5)(A) Notwithstanding the provisions of title 28 or section 7192(c) of this title, the Secretary shall be represented by the general counsel of the Department of Energy (or any attorney or attorneys within the Department of Energy designated by the Secretary) who shall supervise, conduct, and argue any civil litigation to which paragraph (3) of this subsection applies (including any related collection action under paragraph (4)) in a court of the United States or in any other court, except the Supreme Court. However, the Secretary or the general counsel shall consult with the Attorney General concerning such litigation, and the Attorney General shall provide, on request, such assistance in the conduct of such litigation as may be appropriate.

(B) Subject to the provisions of section 7192(c) of this title, the Secretary shall be represented

by the Attorney General, or the Solicitor General, as appropriate, in actions under this subsection, except to the extent provided in subparagraph (A) of this paragraph.

(C) Section 7172(d) of this title shall not apply with respect to the functions of the Secretary under this subsection.

(6) For purposes of applying the preceding provisions of this subsection in the case of the assessment of a penalty by the Commission for a violation of paragraphs (1) and (2) of section 6302 of this title, references in such provisions to "Secretary" and "Department of Energy" shall be considered to be references to the "Commission".

(Pub. L. 94-163, title III, §333, Dec. 22, 1975, 89 Stat. 929; Pub. L. 95-619, title IV, §§423, 425(e), title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3262, 3266, 3288; Pub. L. 100-12, §11(b)(6), Mar. 17, 1987, 101 Stat. 125.)

#### AMENDMENTS

1987—Pub. L. 100-12 inserted headings for subsecs. (a) to (d).

1978—Subsec. (a). Pub. L. 95-619, §§425(e)(1), 691(b)(2), substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing, and "subsection (c) of this section" for "subsection (b) of this section".

Subsec. (c). Pub. L. 95-619, §425(e)(2), substituted "section 6293(c) of this title" for "section 6293(d)(2) of this title" and inserted provision making an exception from the unfair or deceptive act or practice rule.

Subsec. (d). Pub. L. 95-619, §423, added subsec. (d).

#### § 6304. Injunctive enforcement

The United States district courts shall have jurisdiction to restrain (1) any violation of section 6302 of this title and (2) any person from distributing in commerce any covered product which does not comply with an applicable rule under section 6294 or 6295 of this title. Any such action shall be brought by the Commission, except that any such action to restrain any violation of section 6302(a)(3) of this title which relates to requirements prescribed by the Secretary, any violation of section 6302(a)(4) of this title which relates to requests of the Secretary under section 6296(b)(2) of this title, or any violation of section 6302(a)(5) of this title shall be brought by the Secretary. Any such action to restrain any person from distributing in commerce a general service incandescent lamp that does not comply with the applicable standard established under section 6295(i) of this title or an adapter prohibited under section 6302(a)(6) of this title may also be brought by the attorney general of a State in the name of the State. Any such action may be brought in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action under this section, process may be served on a defendant in any other district in which the defendant resides or may be found.

(Pub. L. 94-163, title III, §334, Dec. 22, 1975, 89 Stat. 929; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 110-140, title III, §321(f), Dec. 19, 2007, 121 Stat. 1586.)

## AMENDMENTS

2007—Pub. L. 110-140 inserted after second sentence “Any such action to restrain any person from distributing in commerce a general service incandescent lamp that does not comply with the applicable standard established under section 6295(i) of this title or an adapter prohibited under section 6302(a)(6) of this title may also be brought by the attorney general of a State in the name of the State.”

1978—Pub. L. 95-619 substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration, wherever appearing.

## EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

**§ 6305. Citizen suits****(a) Civil actions; jurisdiction**

Except as otherwise provided in subsection (b) of this section, any person may commence a civil action against—

(1) any manufacturer or private labeler who is alleged to be in violation of any provision of this part or any rule under this part;

(2) any Federal agency which has a responsibility under this part where there is an alleged failure of such agency to perform any act or duty under this part which is not discretionary; or

(3) the Secretary in any case in which there is an alleged failure of the Secretary to comply with a nondiscretionary duty to issue a proposed or final rule according to the schedules set forth in section 6295 of this title.

The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such provision or rule, or order such Federal agency to perform such act or duty, as the case may be. The courts shall advance on the docket, and expedite the disposition of, all causes filed therein pursuant to paragraph (3) of this subsection. If the court finds that the Secretary has failed to comply with a deadline established in section 6295 of this title, the court shall have jurisdiction to order appropriate relief, including relief that will ensure the Secretary's compliance with future deadlines for the same covered product.

**(b) Limitation**

No action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to 60 days after the date on which the plaintiff has given notice of the violation (i) to the Secretary, (ii) to the Commission, and (iii) to any alleged violator of such provision or rule, or

(B) if the Commission has commenced and is diligently prosecuting a civil action to require compliance with such provision or rule, but, in any such action, any person may intervene as a matter of right.

(2) under subsection (a)(2) of this section prior to 60 days after the date on which the plaintiff has given notice of such action to the Secretary and Commission.

Notice under this subsection shall be given in such manner as the Commission shall prescribe by rule.

**(c) Right to intervene**

In such action under this section, the Secretary or the Commission (or both), if not a party, may intervene as a matter of right.

**(d) Award of costs of litigation**

The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

**(e) Preservation of other relief**

Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of this part or any rule thereunder, or to seek any other relief (including relief against the Secretary or the Commission).

**(f) Compliance in good faith**

For purposes of this section, if a manufacturer or private labeler complied in good faith with a rule under this part, then he shall not be deemed to have violated any provision of this part by reason of the alleged invalidity of such rule.

(Pub. L. 94-163, title III, §335, Dec. 22, 1975, 89 Stat. 930; Pub. L. 95-619, title IV, §425(f), title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3266, 3288; Pub. L. 100-12, §§8, 11(b)(7), Mar. 17, 1987, 101 Stat. 122, 126.)

## AMENDMENTS

1987—Subsec. (a). Pub. L. 100-12, §8, added par. (3) and inserted at end “The courts shall advance on the docket, and expedite the disposition of, all causes filed therein pursuant to paragraph (3) of this subsection. If the court finds that the Secretary has failed to comply with a deadline established in section 6295 of this title, the court shall have jurisdiction to order appropriate relief, including relief that will ensure the Secretary's compliance with future deadlines for the same covered product.”

Subsecs. (b) to (f). Pub. L. 100-12, §11(b)(7), inserted headings for subsecs. (b) to (f).

1978—Subsec. (a). Pub. L. 95-619, §425(f), struck out provision in par. (1) which excluded sections 6295 and 6302(a)(5) of this title and rules thereunder, struck out provision in par. (2) which excluded any act or duty under section 6295 or 6302(a)(5) of this title, and inserted provision giving district courts jurisdiction to order Federal agencies to perform particular acts or duties under this part.

Subsecs. (b), (c), (e). Pub. L. 95-619, §691(b)(2), substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration, wherever appearing.

**§ 6306. Administrative procedure and judicial review****(a) Procedure for prescription of rules**

(1) In addition to the requirements of section 553 of title 5, rules prescribed under section 6293, 6294, 6295, 6297, or 6298 of this title shall afford interested persons an opportunity to present written and oral data, views, and arguments with respect to any proposed rule.

(2) In the case of a rule prescribed under section 6295 of this title, the Secretary shall, by means of conferences or other informal procedures, afford any interested person an opportunity to question—

(A) other interested persons who have made oral presentations; and

(B) employees of the United States who have made written or oral presentations with respect to disputed issues of material fact.

Such opportunity shall be afforded to the extent the Secretary determines that questioning pursuant to such procedures is likely to result in a more timely and effective resolution of such issues.

(3) A transcript shall be kept of any oral presentations made under this subsection.

**(b) Petition by persons adversely affected by rules; effect on other laws**

(1) Any person who will be adversely affected by a rule prescribed under section 6293, 6294, or 6295 of this title may, at any time within 60 days after the date on which such rule is prescribed, file a petition with the United States court of appeals for the circuit in which such person resides or has his principal place of business, for judicial review of such rule. A copy of the petition shall be transmitted by the clerk of the court to the agency which prescribed the rule. Such agency shall file in the court the written submissions to, and transcript of, the proceedings on which the rule was based, as provided in section 2112 of title 28.

(2) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5 and to grant appropriate relief as provided in such chapter. No rule under section 6293, 6294, or 6295 of this title may be affirmed unless supported by substantial evidence.

(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(4) The remedies provided for in this subsection shall be in addition to, and not in substitution for, any other remedies provided by law.

(5) The procedures applicable under this part shall not—

(A) be considered to be modified or affected by any other provision of law unless such other provision specifically amends this part (or provisions of law cited herein); or

(B) be considered to be superseded by any other provision of law unless such other provision does so in specific terms by referring to this part and declaring that such provision supersedes, in whole or in part, the procedures of this part.

**(c) Jurisdiction**

Jurisdiction is vested in the Federal district courts of the United States over actions brought by—

(1) any adversely affected person to determine whether a State or local government is complying with the requirements of this part; and

(2) any person who files a petition under section 6295(n) of this title which is denied by the Secretary.

(Pub. L. 94-163, title III, §336, Dec. 22, 1975, 89 Stat. 930; Pub. L. 95-619, title IV, §§425(g), 427,

title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3266, 3267, 3288; Pub. L. 100-12, §9, Mar. 17, 1987, 101 Stat. 123; Pub. L. 105-388, §5(a)(6), Nov. 13, 1998, 112 Stat. 3478.)

AMENDMENTS

1998—Subsec. (c)(2). Pub. L. 105-388 substituted “section 6295(n)” for “section 6295(k)”.

1987—Subsec. (a). Pub. L. 100-12 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Rules under sections 6293, 6294, 6295(a), 6297(b), or 6298 of this title shall be prescribed in accordance with section 553 of title 5, except that—

“(1) interested persons shall be afforded an opportunity to present written and oral data, views, and arguments with respect to any proposed rule, and

“(2) in the case of a rule under section 6295(a) of this title, the Secretary shall, by means of conferences or other informal procedures, afford any interested person an opportunity to question—

“(A) other interested persons who have made oral presentations under paragraph (1), and

“(B) employees of the United States who have made written or oral presentations,

with respect to disputed issues of material fact. Such opportunity shall be afforded to the extent the Secretary determines that questioning pursuant to such procedures is likely to result in a more timely and effective resolution of such issues.

A transcript shall be kept of any oral presentations made under this subsection.”

Subsec. (b). Pub. L. 100-12 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

“(1) Any person who will be adversely affected by a rule prescribed under section 6293, 6294, or 6295 of this title when it is effective may, at any time prior to the sixtieth day after the date such rule is prescribed, file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the agency which prescribed the rule. Such agency thereupon shall file in the court the written submissions to, and transcript of, the proceedings on which the rule was based as provided in section 2112 of title 28.

“(2) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5 and to grant appropriate relief as provided in such chapter. No rule under section 6293, 6294, or 6295 of this title may be affirmed unless supported by substantial evidence.

“(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

“(4) The remedies provided for in this subsection shall be in addition to, and not in substitution for, any other remedies provided by law.”

Subsec. (c). Pub. L. 100-12 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

“(1) Titles IV and V of the Department of Energy Organization Act shall not apply with respect to the procedures under this part.

“(2) The procedures applicable under this part shall not—

“(A) be considered to be modified or affected by any other provision of law unless such other provision specifically amends this part (or provisions of law cited herein), or

“(B) be considered to be superseded by any other provision of law unless such other provision does so in specific terms, referring to this part, and declaring that such provision supersedes, in whole or in part, the procedures of this part.”

1978—Subsec. (a). Pub. L. 95-619, §§425(g)(1)-(3), 691(b)(2), struck out par. designation “(1)” before “Rules” and substituted reference to section “6295(a)”

for “6295(a)(1), (2), or (3)” in first sentence; redesignated subpars. (A) and (B) and cls. (i) and (ii) of subpar. (B) as pars. (1) and (2) and subpars. (A) and (B) of par. (2), respectively; struck out “paragraph (1), (2), or (3) of” before “section 6295(a)” in par. (2) as so redesignated; directed the substitution of “paragraph (1)” for “subparagraph (A)” in par. (2)(B) as so redesignated, which was executed to par. (2)(A) as so redesignated to reflect the probable intent of Congress; substituted “subsection” for “paragraph” in last sentence; and substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration, wherever appearing.

Par. (2), which provided that subsecs. (c) and (d) of section 57a of title 15 shall apply to rules under section 6295 of this title (other than subsecs. (a)(1), (2), and (3)) to the same extent that such subsecs. apply to rules under section 57a(a)(1)(B) of title 15, was struck out to reflect the probable intent of Congress in view of the amendment by Pub. L. 95-619, § 425(g)(1), which struck out designation “(1)” after subsection (a) designation, and in view of the amendment by Pub. L. 95-619, § 422, to section 6295(a) of this title, which struck out pars. (3) to (5) therefrom.

Subsec. (b). Pub. L. 95-619, § 425(g)(4), (5), substituted “section 6293, 6294, or 6295” for “section 6293 or 6294” in pars. (1) and (2) and struck out former par. (5) which related to the application of section 57a(e) of title 15 to rules under section 6295 of this title.

Subsec. (c). Pub. L. 95-619, § 427, added subsec. (c).

### § 6307. Consumer education

#### (a) In general

The Secretary shall, in close cooperation and coordination with the Commission and appropriate industry trade associations and industry members, including retailers, and interested consumer and environmental organizations, carry out a program to educate consumers and other persons with respect to—

- (1) the significance of estimated annual operating costs;
- (2) the way in which comparative shopping, including comparisons of estimated annual operating costs, can save energy for the Nation and money for consumers; and
- (3) such other matters as the Secretary determines may encourage the conservation of energy in the use of consumer products.

Such steps to educate consumers may include publications, audiovisual presentations, demonstrations, and the sponsorship of national and regional conferences involving manufacturers, distributors, retailers, and consumers, and State, local, and Federal Government representatives. Nothing in this section may be construed to require the compilation of lists which compare the estimated annual operating costs of consumer products by model or manufacturer’s name.

#### (b) State and local incentive programs

(1) The Secretary shall, not later than one year after October 24, 1992, issue recommendations to the States for establishing State and local incentive programs designed to encourage the acceleration of voluntary replacement, by consumers, of existing showerheads, faucets, water closets, and urinals with those products that meet the standards established for such products pursuant to subsections (j) and (k) of section 6295 of this title.

(2) In developing such recommendations, the Secretary shall consult with the heads of other

federal<sup>1</sup> agencies, including the Administrator of the Environmental Protection Agency; State officials; manufacturers, suppliers, and installers of plumbing products; and other interested parties.

#### (c) HVAC maintenance

(1) To ensure that installed air conditioning and heating systems operate at maximum rated efficiency levels, the Secretary shall, not later than 180 days after August 8, 2005, carry out a program to educate homeowners and small business owners concerning the energy savings from properly conducted maintenance of air conditioning, heating, and ventilating systems.

(2) The Secretary shall carry out the program under paragraph (1), on a cost-shared basis, in cooperation with the Administrator of the Environmental Protection Agency and any other entities that the Secretary determines to be appropriate, including industry trade associations, industry members, and energy efficiency organizations.

#### (d) Small business education and assistance

(1) The Administrator of the Small Business Administration, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, shall develop and coordinate a Government-wide program, building on the Energy Star for Small Business Program, to assist small businesses in—

- (A) becoming more energy efficient;
- (B) understanding the cost savings from improved energy efficiency;
- (C) understanding and accessing Federal procurement opportunities with regard to Energy Star technologies and products; and
- (D) identifying financing options for energy efficiency upgrades.

(2) The Secretary, the Administrator of the Environmental Protection Agency, and the Administrator of the Small Business Administration shall—

- (A) make program information available to small business concerns directly through the district offices and resource partners of the Small Business Administration, including small business development centers, women’s business centers, and the Service Corps of Retired Executives (SCORE), and through other Federal agencies, including the Federal Emergency Management Agency and the Department of Agriculture; and
- (B) coordinate assistance with the Secretary of Commerce for manufacturing-related efforts, including the Manufacturing Extension Partnership Program.

(3) The Secretary, on a cost shared basis in cooperation with the Administrator of the Environmental Protection Agency, shall provide to the Small Business Administration all advertising, marketing, and other written materials necessary for the dissemination of information under paragraph (2).

(4) The Secretary, the Administrator of the Environmental Protection Agency, and the Administrator of the Small Business Administration, as part of the outreach to small business

<sup>1</sup> So in original. Probably should be capitalized.

concerns under the Energy Star Program for Small Business Program, may enter into cooperative agreements with qualified resources partners (including the National Center for Appropriate Technology) to establish, maintain, and promote a Small Business Energy Clearinghouse (in this subsection referred to as the "Clearinghouse").

(5) The Secretary, the Administrator of the Environmental Protection Agency, and the Administrator of the Small Business Administration shall ensure that the Clearinghouse provides a centralized resource where small business concerns may access, telephonically and electronically, technical information and advice to help increase energy efficiency and reduce energy costs.

(6) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

(Pub. L. 94-163, title III, §337, Dec. 22, 1975, 89 Stat. 931; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 102-486, title I, §123(i), Oct. 24, 1992, 106 Stat. 2831; Pub. L. 109-58, title I, §132, Aug. 8, 2005, 119 Stat. 621.)

#### AMENDMENTS

2005—Subsecs. (c), (d). Pub. L. 109-58 added subsecs. (c) and (d).

1992—Pub. L. 102-486 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1978—Pub. L. 95-619 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, wherever appearing.

#### TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

### § 6308. Annual report

The Secretary shall report to the Congress and the President either (1) as part of his annual report, or (2) in a separate report submitted annually, on the progress of the program undertaken pursuant to this part and on the energy savings impact of this part. Each such report shall specify the actions undertaken by the Secretary in carrying out this part during the period covered by such report, and those actions which the Secretary was required to take under this part during such period but which were not taken, together with the reasons therefor. Nothing in this section provides a defense or justification for a failure by the Secretary to comply with a nondiscretionary duty as provided for in this part.

(Pub. L. 94-163, title III, §338, Dec. 22, 1975, 89 Stat. 932; Pub. L. 95-619, title IV, §425(h), title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3266, 3288; Pub. L. 100-12, §10, Mar. 17, 1987, 101 Stat. 124.)

#### AMENDMENTS

1987—Pub. L. 100-12 inserted at end "Nothing in this section provides a defense or justification for a failure by the Secretary to comply with a nondiscretionary duty as provided for in this part."

1978—Pub. L. 95-619 inserted requirement that each report under this section should account for actions

taken by the Secretary, as well as actions not taken, during the covered period in carrying out this part and substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration.

### § 6309. Authorization of appropriations

#### (a) Authorizations for Secretary

There are authorized to be appropriated to the Secretary not more than the following amounts to carry out his responsibilities under this part—

- (1) \$1,700,000 for fiscal year 1976;
- (2) \$1,500,000 for fiscal year 1977;
- (3) \$3,300,000 for fiscal year 1978; and
- (4) \$10,000,000 for fiscal year 1979.

Amounts authorized for such purposes under paragraph (3) shall be in addition to amounts otherwise authorized and appropriated for such purposes.

#### (b) Authorizations for Commission

There are authorized to be appropriated to the Commission not more than the following amounts to carry out its responsibilities under this part—

- (1) \$650,000 for fiscal year 1976;
- (2) \$700,000 for fiscal year 1977;
- (3) \$700,000 for fiscal year 1978; and
- (3)<sup>1</sup> \$2,000,000 for fiscal year 1979.

#### (c) Other authorizations

There are authorized to be appropriated to the Secretary to be allocated not more than the following amounts—

- (1) \$1,100,000 for fiscal year 1976;
- (2) \$2,500,000 for fiscal year 1977; and
- (3) \$1,800,000 for fiscal year 1978.

Such amounts shall, and any amounts authorized to be appropriated under subsection (a) of this section, may be allocated by the Secretary to the National Institute of Standards and Technology.

(Pub. L. 94-163, title III, §339, Dec. 22, 1975, 89 Stat. 932; Pub. L. 95-70, §3, July 21, 1977, 91 Stat. 276; Pub. L. 95-619, title IV, §426, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3267, 3288; Pub. L. 100-12, §11(b)(8), Mar. 17, 1987, 101 Stat. 126; Pub. L. 100-418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433.)

#### AMENDMENTS

1988—Subsec. (c). Pub. L. 100-418 substituted "National Institute of Standards and Technology" for "National Bureau of Standards" in closing provisions.

1987—Pub. L. 100-12 inserted headings for subsecs. (a) to (c).

1978—Subsec. (a). Pub. L. 95-619, §§426(a), 691(b)(2), substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration, in text preceding par. (1), "\$3,300,000" for "\$1,500,000" in par. (3), added par. (4), and provided that amounts authorized under par. (3) would be in addition to amounts otherwise authorized and appropriated.

Subsec. (b)(3). Pub. L. 95-619, §426(b), added second par. (3) relating to fiscal year 1979.

Subsec. (c). Pub. L. 95-619, §691(b)(2), substituted "Secretary" for "Administrator".

1977—Subsec. (c)(2). Pub. L. 95-70, §3(a), substituted "\$2,500,000" for "\$700,000".

Subsec. (c)(3). Pub. L. 95-70, §3(b), substituted "\$1,800,000" for "\$700,000".

<sup>1</sup> So in original. Probably should be designated "(4)".

## PART A-1—CERTAIN INDUSTRIAL EQUIPMENT

## CODIFICATION

This part was, in the original, designated part C and has been changed to part A-1 for purposes of codification.

## § 6311. Definitions

For purposes of this part—

(1) The term “covered equipment” means one of the following types of industrial equipment:

- (A) Electric motors and pumps.
- (B) Small commercial package air conditioning and heating equipment.
- (C) Large commercial package air conditioning and heating equipment.
- (D) Very large commercial package air conditioning and heating equipment.
- (E) Commercial refrigerators, freezers, and refrigerator-freezers.
- (F) Automatic commercial ice makers.
- (G) Walk-in coolers and walk-in freezers.
- (H) Commercial clothes washers.
- (I) Packaged terminal air-conditioners and packaged terminal heat pumps.
- (J) Warm air furnaces and packaged boilers.
- (K) Storage water heaters, instantaneous water heaters, and unfired hot water storage tanks.
- (L) Any other type of industrial equipment which the Secretary classifies as covered equipment under section 6312(b) of this title.

(2)(A) The term “industrial equipment” means any article of equipment referred to in subparagraph (B) of a type—

- (i) which in operation consumes, or is designed to consume, energy;
- (ii) which, to any significant extent, is distributed in commerce for industrial or commercial use; and
- (iii) which is not a “covered product” as defined in section 6291(a)(2) of this title, other than a component of a covered product with respect to which there is in effect a determination under section 6312(c) of this title;

without regard to whether such article is in fact distributed in commerce for industrial or commercial use.

(B) The types of equipment referred to in this subparagraph (in addition to electric motors and pumps, commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers, packaged terminal air-conditioners, packaged terminal heat pumps, warm air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks) are as follows:

- (i) compressors;
- (ii) fans;
- (iii) blowers;
- (iv) refrigeration equipment;
- (v) electric lights;
- (vi) electrolytic equipment;
- (vii) electric arc equipment;

- (viii) steam boilers;
- (ix) ovens;
- (x) kilns;
- (xi) evaporators; and
- (xii) dryers.

(3) The term “energy efficiency” means the ratio of the useful output of services from an article of industrial equipment to the energy use by such article, determined in accordance with test procedures under section 6314 of this title.

(4) The term “energy use” means the quantity of energy directly consumed by an article of industrial equipment at the point of use, determined in accordance with test procedures established under section 6314 of this title.

(5) The term “manufacturer” means any person who manufactures industrial equipment.

(6) The term “label” may include any printed matter determined appropriate by the Secretary.

(7) The terms “energy”, “manufacture”, “import”, “importation”, “consumer product”, “distribute in commerce”, “distribution in commerce”, and “commerce” have the same meaning as is given such terms in section 6291 of this title.

(8)(A) The term “commercial package air conditioning and heating equipment” means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application.

(B) The term “small commercial package air conditioning and heating equipment” means commercial package air conditioning and heating equipment that is rated below 135,000 Btu per hour (cooling capacity).

(C) The term “large commercial package air conditioning and heating equipment” means commercial package air conditioning and heating equipment that is rated—

- (i) at or above 135,000 Btu per hour; and
- (ii) below 240,000 Btu per hour (cooling capacity).

(D) The term “very large commercial package air conditioning and heating equipment” means commercial package air conditioning and heating equipment that is rated—

- (i) at or above 240,000 Btu per hour; and
- (ii) below 760,000 Btu per hour (cooling capacity).

(9)(A) The term “commercial refrigerator, freezer, and refrigerator-freezer” means refrigeration equipment that—

- (i) is not a consumer product (as defined in section 6291 of this title);
- (ii) is not designed and marketed exclusively for medical, scientific, or research purposes;
- (iii) operates at a chilled, frozen, combination chilled and frozen, or variable temperature;
- (iv) displays or stores merchandise and other perishable materials horizontally, semivertically, or vertically;
- (v) has transparent or solid doors, sliding or hinged doors, a combination of hinged, sliding, transparent, or solid doors, or no doors;

(vi) is designed for pull-down temperature applications or holding temperature applications; and

(vii) is connected to a self-contained condensing unit or to a remote condensing unit.

(B) The term “holding temperature application” means a use of commercial refrigeration equipment other than a pull-down temperature application, except a blast chiller or freezer.

(C) The term “integrated average temperature” means the average temperature of all test package measurements taken during the test.

(D) The term “pull-down temperature application” means a commercial refrigerator with doors that, when fully loaded with 12 ounce beverage cans at 90 degrees F, can cool those beverages to an average stable temperature of 38 degrees F in 12 hours or less.

(E) The term “remote condensing unit” means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is remotely located from the refrigerated equipment and consists of one or more refrigerant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories.

(F) The term “self-contained condensing unit” means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is an integral part of the refrigerated equipment and consists of one or more refrigerant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories.

(10)(A) The term “packaged terminal air conditioner” means a wall sleeve and a separate unencased combination of heating and cooling assemblies specified by the builder and intended for mounting through the wall. It includes a prime source of refrigeration, separable outdoor louvers, forced ventilation, and heating availability by builder’s choice of hot water, steam, or electricity.

(B) The term “packaged terminal heat pump” means a packaged terminal air conditioner that utilizes reverse cycle refrigeration as its prime heat source and should have supplementary heat source available to builders with the choice of hot water, steam, or electric resistant heat.

(11)(A) The term “warm air furnace” means a self-contained oil- or gas-fired furnace designed to supply heated air through ducts to spaces that require it and includes combination warm air furnace/electric air conditioning units but does not include unit heaters and duct furnaces.

(B) The term “packaged boiler” means a boiler that is shipped complete with heating equipment, mechanical draft equipment, and automatic controls; usually shipped in one or more sections.

(12)(A) The term “storage water heater” means a water heater that heats and stores water within the appliance at a thermostatically controlled temperature for delivery on demand. Such term does not include units with an input rating of 4000 Btu per hour or more per gallon of stored water.

(B) The term “instantaneous water heater” means a water heater that has an input rating of at least 4000 Btu per hour per gallon of stored water.

(C) The term “unfired hot water storage tank” means a tank used to store water that is heated externally.

(13) ELECTRIC MOTOR.—

(A) GENERAL PURPOSE ELECTRIC MOTOR (SUBTYPE I).—The term “general purpose electric motor (subtype I)” means any motor that meets the definition of “General Purpose” as established in the final rule issued by the Department of Energy entitled “Energy Efficiency Program for Certain Commercial and Industrial Equipment: Test Procedures, Labeling, and Certification Requirements for Electric Motors” (10 CFR 431), as in effect on December 19, 2007.

(B) GENERAL PURPOSE ELECTRIC MOTOR (SUBTYPE II).—The term “general purpose electric motor (subtype II)” means motors incorporating the design elements of a general purpose electric motor (subtype I) that are configured as 1 of the following:

(i) A U-Frame Motor.

(ii) A Design C Motor.

(iii) A close-coupled pump motor.

(iv) A Footless motor.

(v) A vertical solid shaft normal thrust motor (as tested in a horizontal configuration).

(vi) An 8-pole motor (900 rpm).

(vii) A poly-phase motor with voltage of not more than 600 volts (other than 230 or 460 volts.<sup>1</sup>

(C) The term “definite purpose motor” means any motor designed in standard ratings with standard operating characteristics or standard mechanical construction for use under service conditions other than usual or for use on a particular type of application and which cannot be used in most general purpose applications.

(D) The term “special purpose motor” means any motor, other than a general purpose motor or definite purpose motor, which has special operating characteristics or special mechanical construction, or both, designed for a particular application.

(E) The term “open motor” means a motor having ventilating openings which permit passage of external cooling air over and around the windings of the machine.

(F) The term “enclosed motor” means a motor so enclosed as to prevent the free exchange of air between the inside and outside of the case but not sufficiently enclosed to be termed airtight.

(G) The term “small electric motor” means a NEMA general purpose alternating current single-speed induction motor, built in a two-digit frame number series in accordance with NEMA Standards Publication MG1-1987.

(H) The term “efficiency” when used with respect to an electric motor means the ratio of an electric motor’s useful power output to its total power input, expressed in percentage.

<sup>1</sup>So in original. A closing parenthesis probably should follow “volts”.



(I) The term “nominal full load efficiency” means the average efficiency of a population of motors of duplicate design as determined in accordance with NEMA Standards Publication MG1-1987.

(14) The term “ASHRAE” means the American Society of Heating, Refrigerating, and Air Conditioning Engineers.

(15) The term “IES” means the Illuminating Engineering Society of North America.

(16) The term “NEMA” means the National Electrical Manufacturers Association.

(17) The term “IEEE” means the Institute of Electrical and Electronics Engineers.

(18) The term “energy conservation standard” means—

(A) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

(B) a design requirement for a product.

(19) The term “automatic commercial ice maker” means a factory-made assembly (not necessarily shipped in one package) that—

(A) consists of a condensing unit and ice-making section operating as an integrated unit, with means for making and harvesting ice; and

(B) may include means for storing ice, dispensing ice, or storing and dispensing ice.

(20) WALK-IN COOLER; WALK-IN FREEZER.—

(A) IN GENERAL.—The terms “walk-in cooler” and “walk-in freezer” mean an enclosed storage space refrigerated to temperatures, respectively, above, and at or below 32 degrees Fahrenheit that can be walked into, and has a total chilled storage area of less than 3,000 square feet.

(B) EXCLUSION.—The terms “walk-in cooler” and “walk-in freezer” do not include products designed and marketed exclusively for medical, scientific, or research purposes.

(21) The term “commercial clothes washer” means a soft-mount front-loading or soft-mount top-loading clothes washer that—

(A) has a clothes container compartment that—

(i) for horizontal-axis clothes washers, is not more than 3.5 cubic feet; and

(ii) for vertical-axis clothes washers, is not more than 4.0 cubic feet; and

(B) is designed for use in—

(i) applications in which the occupants of more than one household will be using the clothes washer, such as multi-family housing common areas and coin laundries; or

(ii) other commercial applications.

(22)<sup>2</sup> The term “harvest rate” means the amount of ice (at 32 degrees F) in pounds produced per 24 hours.

(22)<sup>2</sup> SINGLE PACKAGE VERTICAL AIR CONDITIONER.—The term “single package vertical air conditioner” means air-cooled commercial package air conditioning and heating equipment that—

(A) is factory-assembled as a single package that—

(i) has major components that are arranged vertically;

(ii) is an encased combination of cooling and optional heating components; and

(iii) is intended for exterior mounting on, adjacent interior to, or through an outside wall;

(B) is powered by a single- or 3-phase current;

(C) may contain 1 or more separate indoor grilles, outdoor louvers, various ventilation options, indoor free air discharges, ductwork, well plenum, or sleeves; and

(D) has heating components that may include electrical resistance, steam, hot water, or gas, but may not include reverse cycle refrigeration as a heating means.

(23) SINGLE PACKAGE VERTICAL HEAT PUMP.—The term “single package vertical heat pump” means a single package vertical air conditioner that—

(A) uses reverse cycle refrigeration as its primary heat source; and

(B) may include secondary supplemental heating by means of electrical resistance, steam, hot water, or gas.

(Pub. L. 94-163, title III, §340, as added Pub. L. 95-619, title IV, §441(a), Nov. 9, 1978, 92 Stat. 3267; amended Pub. L. 102-486, title I, §122(a), (f)(1), Oct. 24, 1992, 106 Stat. 2806, 2817; Pub. L. 109-58, title I, §136(a), Aug. 8, 2005, 119 Stat. 634; Pub. L. 110-140, title III, §§312(a), 313(a), 314(a), Dec. 19, 2007, 121 Stat. 1564, 1568, 1569.)

#### AMENDMENTS

2007—Par. (1)(G) to (L). Pub. L. 110-140, §312(a)(1), added subpar. (G) and redesignated former subpars. (G) to (K) as (H) to (L), respectively.

Par. (13). Pub. L. 110-140, §313(a), inserted par. heading, added subpars. (A) and (B), redesignated former subpars. (B) to (H) as (C) to (I), respectively, and struck out former subpar. (A) which read as follows: “The term ‘electric motor’ means any motor which is a general purpose T-frame, single-speed, foot-mounting, polyphase squirrel-cage induction motor of the National Electrical Manufacturers Association, Design A and B, continuous rated, operating on 230/460 volts and constant 60 Hertz line power as defined in NEMA Standards Publication MG1-1987.”

Pars. (20), (21). Pub. L. 110-140, §312(a)(2), (3), added par. (20) and redesignated former par. (20) as (21). Former par. (21) redesignated (22) relating to harvest rate.

Par. (22). Pub. L. 110-140, §314(a), added par. (22) relating to single package vertical air conditioner.

Pub. L. 110-140, §312(a)(2), redesignated par. (21) as (22) relating to harvest rate.

Par. (23). Pub. L. 110-140, §314(a), added par. (23).

2005—Par. (1)(D) to (K). Pub. L. 109-58, §136(a)(1), added subpars. (D) to (G) and redesignated former subpars. (D) to (G) as (H) to (K), respectively.

Par. (2)(B). Pub. L. 109-58, §136(a)(2), substituted “commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers” for “small and large commercial package air conditioning and heating equipment” in introductory provisions.

Pars. (8), (9). Pub. L. 109-58, §136(a)(3), added pars. (8) and (9) and struck out former pars. (8) and (9) which read as follows:

“(8) The term ‘small commercial package air conditioning and heating equipment’ means air-cooled, water-cooled, evaporatively-cooled, or water source

<sup>2</sup> So in original. Two pars. (22) have been enacted.

(not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated below 135,000 Btu per hour (cooling capacity).

“(9) The term ‘large commercial package air conditioning and heating equipment’ means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated at or above 135,000 Btu per hour and below 240,000 Btu per hour (cooling capacity).”

Pars. (19) to (21). Pub. L. 109-58, § 136(a)(4), added pars. (19) to (21).

1992—Par. (1)(B) to (G). Pub. L. 102-486, § 122(a)(1), added subpars. (B) to (F) and redesignated former subpar. (B) as (G).

Par. (2)(B). Pub. L. 102-486, § 122(a)(2), in introductory provisions, substituted “pumps, small and large commercial package air conditioning and heating equipment, packaged terminal air-conditioners, packaged terminal heat pumps, warm air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks” for “pumps”, redesignated cls. (vi) to (x) and (xii) to (xiv) as cls. (v) to (ix) and (x) to (xi), respectively, and struck out former cls. (v) and (xi) which read “air conditioning equipment;” and “furnaces;”, respectively.

Par. (3). Pub. L. 102-486, § 122(f)(1), substituted “(3) The” for “(3) the”.

Pars. (8) to (18). Pub. L. 102-486, § 122(a)(3), added pars. (8) to (18).

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

### § 6312. Purposes and coverage

#### (a) Congressional statement of purpose

It is the purpose of this part to improve the efficiency of electric motors and pumps and certain other industrial equipment in order to conserve the energy resources of the Nation.

#### (b) Inclusion of industrial equipment as covered equipment

The Secretary may, by rule, include a type of industrial equipment as covered equipment if he determines that to do so is necessary to carry out the purposes of this part.

#### (c) Inclusion of component parts of consumer products as industrial equipment

The Secretary may, by rule, include as industrial equipment articles which are component parts of consumer products, if he determines that—

- (1) such articles are, to a significant extent, distributed in commerce other than as component parts for consumer products; and
- (2) such articles meet the requirements of section 6311(2)(A) of this title (other than clauses (ii) and (iii)).

(Pub. L. 94-163, title III, § 341, as added Pub. L. 95-619, title IV, § 441(a), Nov. 9, 1978, 92 Stat. 3268.)

### § 6313. Standards

#### (a) Small, large, and very large commercial package air conditioning and heating equipment, packaged terminal air conditioners and heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks

(1) Each small commercial package air conditioning and heating equipment (including single package vertical air conditioners and single package vertical heat pumps) manufactured on or after January 1, 1994, shall meet the following standard levels:

(A) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 10.0.

(B) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 9.7.

(C) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 8.9 (at a standard rating of 95 degrees F db).

(D) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 6.8.

(E) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 6.6.

(F) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.0 (at a high temperature rating of 47 degrees F db).

(G) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity) shall be 9.3 (at a standard rating of 95 degrees F db, outdoor temperature for evaporatively cooled equipment, and 85 degrees Fahrenheit entering water temperature for water-source and water-cooled equipment).

(H) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 10.5 (at a standard rating of 95 degrees F db, outdoor temperature for evaporatively cooled equipment, and 85 degrees Fahrenheit entering water temperature for water source and water-cooled equipment).

(I) The minimum coefficient of performance in the heating mode of water-source heat pumps less than 135,000 Btu per hour (cooling

capacity) shall be 3.8 (at a standard rating of 70 degrees Fahrenheit entering water).

(2) Each large commercial package air conditioning and heating equipment (including single package vertical air conditioners and single package vertical heat pumps) manufactured on or after January 1, 1995, but before January 1, 2010, shall meet the following standard levels:

(A) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 8.5 (at a standard rating of 95 degrees F db).

(B) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 2.9.

(C) The minimum energy efficiency ratio of water- and evaporatively-cooled central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 9.6 (according to ARI Standard 360-86).

(3) Each packaged terminal air conditioner and packaged terminal heat pump manufactured on or after January 1, 1994, shall meet the following standard levels:

(A) The minimum energy efficiency ratio (EER) of packaged terminal air conditioners and packaged terminal heat pumps in the cooling mode shall be  $10.0 - (0.16 \times \text{Capacity [in thousands of Btu per hour at a standard rating of 95 degrees F db, outdoor temperature]})$ . If a unit has a capacity of less than 7,000 Btu per hour, then 7,000 Btu per hour shall be used in the calculation. If a unit has a capacity of greater than 15,000 Btu per hour, then 15,000 Btu per hour shall be used in the calculation.

(B) The minimum coefficient of performance (COP) of packaged terminal heat pumps in the heating mode shall be  $1.3 + (0.16 \times \text{the minimum cooling EER as specified in subparagraph (A)})$  (at a standard rating of 47 degrees F db).

(4) Each warm air furnace and packaged boiler manufactured on or after January 1, 1994, shall meet the following standard levels:

(A) The minimum thermal efficiency at the maximum rated capacity of gas-fired warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 80 percent.

(B) The minimum thermal efficiency at the maximum rated capacity of oil-fired warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 81 percent.

(C) The minimum combustion efficiency at the maximum rated capacity of gas-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 80 percent.

(D) The minimum combustion efficiency at the maximum rated capacity of oil-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 83 percent.

(5) Each storage water heater, instantaneous water heater, and unfired water storage tank

manufactured on or after January 1, 1994, shall meet the following standard levels:

(A) Except as provided in subparagraph (G), the maximum standby loss, in percent per hour, of electric storage water heaters shall be  $0.30 + (27/\text{Measured Storage Volume [in gallons]})$ .

(B) Except as provided in subparagraph (G), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of 155,000 Btu per hour or less shall be  $1.30 + (114/\text{Measured Storage Volume [in gallons]})$ . The minimum thermal efficiency of such units shall be 78 percent.

(C) Except as provided in subparagraph (G), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of more than 155,000 Btu per hour shall be  $1.30 + (95/\text{Measured Storage Volume [in gallons]})$ . The minimum thermal efficiency of such units shall be 78 percent.

(D) The minimum thermal efficiency of instantaneous water heaters with a storage volume of less than 10 gallons shall be 80 percent.

(E) Except as provided in subparagraph (G), the minimum thermal efficiency of instantaneous water heaters with a storage volume of 10 gallons or more shall be 77 percent. The maximum standby loss, in percent/hour, of such units shall be  $2.30 + (67/\text{Measured Storage Volume [in gallons]})$ .

(F) Except as provided in subparagraph (G), the maximum heat loss of unfired hot water storage tanks shall be 6.5 Btu per hour per square foot of tank surface area.

(G) Storage water heaters and hot water storage tanks having more than 140 gallons of storage capacity need not meet the standby loss or heat loss requirements specified in subparagraphs (A) through (C) and subparagraphs (E) and (F) if the tank surface area is thermally insulated to R-12.5 and if a standing pilot light is not used.

(6) AMENDED ENERGY EFFICIENCY STANDARDS.—  
(A) IN GENERAL.—

(i) ANALYSIS OF POTENTIAL ENERGY SAVINGS.—If ASHRAE/IES Standard 90.1 is amended with respect to any small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, very large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, or unfired hot water storage tanks, not later than 180 days after the amendment of the standard, the Secretary shall publish in the Federal Register for public comment an analysis of the energy savings potential of amended energy efficiency standards.

(ii) AMENDED UNIFORM NATIONAL STANDARD FOR PRODUCTS.—

(I) IN GENERAL.—Except as provided in subclause (II), not later than 18 months after the date of publication of the amendment to the ASHRAE/IES Standard 90.1 for a product described in clause (i), the Secretary shall establish an amended uniform national standard for the product at the

minimum level specified in the amended ASHRAE/IES Standard 90.1.

(II) MORE STRINGENT STANDARD.—Subclause (I) shall not apply if the Secretary determines, by rule published in the Federal Register, and supported by clear and convincing evidence, that adoption of a uniform national standard more stringent than the amended ASHRAE/IES Standard 90.1 for the product would result in significant additional conservation of energy and is technologically feasible and economically justified.

(B) RULE.—If the Secretary makes a determination described in clause (ii)(II)<sup>1</sup> for a product described in clause (i),<sup>1</sup> not later than 30 months after the date of publication of the amendment to the ASHRAE/IES Standard 90.1 for the product, the Secretary shall issue the rule establishing the amended standard.

(iii)<sup>2</sup> CONSIDERATION OF PRICES AND OPERATING PATTERNS.—If the Secretary is considering revised standards for air-cooled 3-phase central air conditioners and central air conditioning heat pumps with less<sup>3</sup> 65,000 Btu per hour (cooling capacity), the Secretary shall use commercial energy prices and operating patterns in all analyses conducted by the Secretary.

(C) AMENDMENT OF STANDARD.—

(i) IN GENERAL.—Not later than 6 years after issuance of any final rule establishing or amending a standard, as required for a product under this part, the Secretary shall publish—

(I) a notice of the determination of the Secretary that standards for the product do not need to be amended, based on the criteria established under subparagraph (A); or

(II) a notice of proposed rulemaking including new proposed standards based on the criteria and procedures established under subparagraph (B).

(ii) NOTICE.—If the Secretary publishes a notice under clause (i), the Secretary shall—

(I) publish a notice stating that the analysis of the Department is publicly available; and

(II) provide an opportunity for written comment.

(iii) AMENDMENT OF STANDARD; NEW DETERMINATION.—

(I) AMENDMENT OF STANDARD.—Not later than 2 years after a notice is issued under clause (i)(II), the Secretary shall publish a final rule amending the standard for the product.

(II) NEW DETERMINATION.—Not later than 3 years after a determination under clause (i)(I), the Secretary shall make a new determination and publication under subclause (I) or (II) of clause (i).

(iv) APPLICATION TO PRODUCTS.—An amendment prescribed under this subsection shall

apply to products manufactured after a date that is the later of—

(I) the date that is 3 years after publication of the final rule establishing a new standard; or

(II) the date that is 6 years after the effective date of the current standard for a covered product.

(v) REPORTS.—The Secretary shall promptly submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a progress report every 180 days on compliance with this subparagraph, including a specific plan to remedy any failures to comply with deadlines for action established under this subparagraph.

(D) A standard amended by the Secretary under this paragraph shall become effective for products manufactured—

(i) with respect to small commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks, on or after a date which is two years after the effective date of the applicable minimum energy efficiency requirement in the amended ASHRAE/IES standard referred to in subparagraph (A); and

(ii) with respect to large commercial package air conditioning and heating equipment and very large commercial package air conditioning and heating equipment, on or after a date which is three years after the effective date of the applicable minimum energy efficiency requirement in the amended ASHRAE/IES standard referred to in subparagraph (A);

except that an energy conservation standard amended by the Secretary pursuant to a rule under subparagraph (B) shall become effective for products manufactured on or after a date which is four years after the date such rule is published in the Federal Register.

(7) Small commercial package air conditioning and heating equipment (other than single package vertical air conditioners and single package vertical heat pumps) shall meet the following standards:

(A) For equipment manufactured on or after January 1, 2010, the minimum energy efficiency ratio of air-cooled central air conditioners at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be—

(i) 11.2 for equipment with no heating or electric resistance heating; and

(ii) 11.0 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(B) For equipment manufactured on or after January 1, 2010, the minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be—

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. No cls. (i) and (ii) have been enacted.

<sup>3</sup> So in original. Probably should be followed by "than".

(i) 11.0 for equipment with no heating or electric resistance heating; and

(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(C) For equipment manufactured on or after January 1, 2010, the minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.3 (at a high temperature rating of 47 degrees F db).

(D) For equipment manufactured on or after the later of January 1, 2008, or the date that is 180 days after December 19, 2007—

(i) the minimum seasonal energy efficiency ratio of air-cooled 3-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 13.0;

(ii) the minimum seasonal energy efficiency ratio of air-cooled 3-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 13.0;

(iii) the minimum heating seasonal performance factor of air-cooled 3-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 7.7; and

(iv) the minimum heating seasonal performance factor of air-cooled 3-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 7.7.

(8) Large commercial package air conditioning and heating equipment (other than single package vertical air conditioners and single package vertical heat pumps) manufactured on or after January 1, 2010, shall meet the following standards:

(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be—

(i) 11.0 for equipment with no heating or electric resistance heating; and

(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be—

(i) 10.6 for equipment with no heating or electric resistance heating; and

(ii) 10.4 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(C) The minimum coefficient of performance in the heating mode of air-cooled central air

conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 3.2 (at a high temperature rating of 47 degrees F db).

(9) Very large commercial package air conditioning and heating equipment (other than single package vertical air conditioners and single package vertical heat pumps) manufactured on or after January 1, 2010, shall meet the following standards:

(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be—

(i) 10.0 for equipment with no heating or electric resistance heating; and

(ii) 9.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be—

(i) 9.5 for equipment with no heating or electric resistance heating; and

(ii) 9.3 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be 3.2 (at a high temperature rating of 47 degrees F db).

(10) SINGLE PACKAGE VERTICAL AIR CONDITIONERS AND SINGLE PACKAGE VERTICAL HEAT PUMPS.—

(A) IN GENERAL.—Single package vertical air conditioners and single package vertical heat pumps manufactured on or after January 1, 2010, shall meet the following standards:

(i) The minimum energy efficiency ratio of single package vertical air conditioners less than 65,000 Btu per hour (cooling capacity), single-phase, shall be 9.0.

(ii) The minimum energy efficiency ratio of single package vertical air conditioners less than 65,000 Btu per hour (cooling capacity), 3-phase, shall be 9.0.

(iii) The minimum energy efficiency ratio of single package vertical air conditioners at or above 65,000 Btu per hour (cooling capacity) but less than 135,000 Btu per hour (cooling capacity), shall be 8.9.

(iv) The minimum energy efficiency ratio of single package vertical air conditioners at or above 135,000 Btu per hour (cooling capacity) but less than 240,000 Btu per hour (cooling capacity), shall be 8.6.

(v) The minimum energy efficiency ratio of single package vertical heat pumps less than 65,000 Btu per hour (cooling capacity), single-phase, shall be 9.0 and the minimum

coefficient of performance in the heating mode shall be 3.0.

(vi) The minimum energy efficiency ratio of single package vertical heat pumps less than 65,000 Btu per hour (cooling capacity), 3-phase, shall be 9.0 and the minimum coefficient of performance in the heating mode shall be 3.0.

(vii) The minimum energy efficiency ratio of single package vertical heat pumps at or above 65,000 Btu per hour (cooling capacity) but less than 135,000 Btu per hour (cooling capacity), shall be 8.9 and the minimum coefficient of performance in the heating mode shall be 3.0.

(viii) The minimum energy efficiency ratio of single package vertical heat pumps at or above 135,000 Btu per hour (cooling capacity) but less than 240,000 Btu per hour (cooling capacity), shall be 8.6 and the minimum coefficient of performance in the heating mode shall be 2.9.

(B) REVIEW.—Not later than 3 years after December 19, 2007, the Secretary shall review the most recently published ASHRAE/IES Standard 90.1 with respect to single package vertical air conditioners and single package vertical heat pumps in accordance with the procedures established under paragraph (6).

**(b) Electric motors**

(1) Except for definite purpose motors, special purpose motors, and those motors exempted by the Secretary under paragraph (2), each electric motor manufactured (alone or as a component of another piece of equipment) after the 60-month period beginning on October 24, 1992, or in the case of an electric motor which requires listing or certification by a nationally recognized safety testing laboratory, after the 84-month period beginning on October 24, 1992, shall have a nominal full load efficiency of not less than the following:

Number of poles	Nominal Full-Load Efficiency					
	Open Motors			Closed Motors		
	6	4	2	6	4	2
Motor Horsepower						
1	80.0	82.5	.....	80.0	82.5	75.5
1.5	84.0	84.0	82.5	85.5	84.0	82.5
2	85.5	84.0	84.0	86.5	84.0	84.0
3	86.5	86.5	84.0	87.5	87.5	85.5
5	87.5	87.5	85.5	87.5	87.5	87.5
7.5	88.5	88.5	87.5	89.5	89.5	88.5
10	90.2	89.5	88.5	89.5	89.5	89.5
15	90.2	91.0	89.5	90.2	91.0	90.2
20	91.0	91.0	90.2	90.2	91.0	90.2
25	91.7	91.7	91.0	91.7	92.4	91.0
30	92.4	92.4	91.0	91.7	92.4	91.0
40	93.0	93.0	91.7	93.0	93.0	91.7
50	93.0	93.0	92.4	93.0	93.0	92.4
60	93.6	93.6	93.0	93.6	93.6	93.0
75	93.6	94.1	93.0	93.6	94.1	93.0
100	94.1	94.1	93.0	94.1	94.5	93.6
125	94.1	94.5	93.6	94.1	94.5	94.5
150	94.5	95.0	93.6	95.0	95.0	94.5
200	94.5	95.0	94.5	95.0	95.0	95.0

(2)(A) The Secretary may, by rule, provide that the standards specified in paragraph (1) shall not apply to certain types or classes of electric motors if—

(i) compliance with such standards would not result in significant energy savings because such motors cannot be used in most general purpose applications or are very unlikely to be used in most general purpose applications; and

(ii) standards for such motors would not be technologically feasible or economically justified.

(B) Not later than one year after October 24, 1992, a manufacturer seeking an exemption under this paragraph with respect to a type or class of electric motor developed on or before October 24, 1992, shall submit a petition to the Secretary requesting such exemption. Such petition shall include evidence that the type or class of motor meets the criteria for exemption specified in subparagraph (A).

(C) Not later than two years after October 24, 1992, the Secretary shall rule on each petition for exemption submitted pursuant to subparagraph (B). In making such ruling, the Secretary shall afford an opportunity for public comment.

(D) Manufacturers of types or classes of motors developed after October 24, 1992, to which standards under paragraph (1) would be applicable may petition the Secretary for exemptions from compliance with such standards based on the criteria specified in subparagraph (A).

(3)(A) The Secretary shall publish a final rule no later than the end of the 24-month period beginning on the effective date of the standards established under paragraph (1) to determine if such standards should be amended. Such rule shall provide that any amendment shall apply to electric motors manufactured on or after a date which is five years after the effective date of the standards established under paragraph (1).

(B) The Secretary shall publish a final rule no later than 24 months after the effective date of the previous final rule to determine whether to amend the standards in effect for such product. Any such amendment shall apply to electric motors manufactured after a date which is five years after—

(i) the effective date of the previous amendment; or

(ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective.

**(c) Commercial refrigerators, freezers, and refrigerator-freezers**

(1) In this subsection:

(A) The term “AV” means the adjusted volume (ft<sup>3</sup>) (defined as 1.63 x frozen temperature compartment volume (ft<sup>3</sup>) + chilled temperature compartment volume (ft<sup>3</sup>)) with compartment volumes measured in accordance with the Association of Home Appliance Manufacturers Standard HRF1-1979.

(B) The term “V” means the chilled or frozen compartment volume (ft<sup>3</sup>) (as defined in the Association of Home Appliance Manufacturers Standard HRF1-1979).

(C) Other terms have such meanings as may be established by the Secretary, based on industry-accepted definitions and practice.

(2) Each commercial refrigerator, freezer, and refrigerator-freezer with a self-contained con-

densing unit designed for holding temperature applications manufactured on or after January 1, 2010, shall have a daily energy consumption (in kilowatt hours per day) that does not exceed the following:

Refrigerators with solid doors .....	0.10 V + 2.04
Refrigerators with transparent doors .....	0.12 V + 3.34
Freezers with solid doors .....	0.40 V + 1.38
Freezers with transparent doors .....	0.75 V + 4.10
Refrigerators/freezers with solid doors the greater of.	0.27 AV - 0.71 or 0.70.

(3) Each commercial refrigerator with a self-contained condensing unit designed for pull-down temperature applications and transparent doors manufactured on or after January 1, 2010, shall have a daily energy consumption (in kilowatt hours per day) of not more than 0.126 V + 3.51.

(4)(A) Not later than January 1, 2009, the Secretary shall issue, by rule, standard levels for ice-cream freezers, self-contained commercial refrigerators, freezers, and refrigerator-freezers without doors, and remote condensing commercial refrigerators, freezers, and refrigerator-freezers, with the standard levels effective for equipment manufactured on or after January 1, 2012.

(B) The Secretary may issue, by rule, standard levels for other types of commercial refrigerators, freezers, and refrigerator-freezers not covered by paragraph (2)(A) with the standard levels effective for equipment manufactured 3 or more years after the date on which the final rule is published.

(5)(A) Not later than January 1, 2013, the Secretary shall issue a final rule to determine whether the standards established under this subsection should be amended.

(B) Not later than 3 years after the effective date of any amended standards under subparagraph (A) or the publication of a final rule determining that the standards should not be amended, the Secretary shall issue a final rule to determine whether the standards established under this subsection or the amended standards, as applicable, should be amended.

(C) If the Secretary issues a final rule under subparagraph (A) or (B) establishing amended standards, the final rule shall provide that the amended standards apply to products manufactured on or after the date that is—

(i) 3 years after the date on which the final amended standard is published; or

(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the date on which the final rule is published.

**(d) Automatic commercial ice makers**

(1) Each automatic commercial ice maker that produces cube type ice with capacities between 50 and 2500 pounds per 24-hour period when tested according to the test standard established in section 6314(a)(7) of this title and is manufactured on or after January 1, 2010, shall meet the following standard levels:

Equipment Type	Type of Cooling	Harvest Rate (lbs ice/24 hours)	Maximum Energy Use (kWh/100 lbs Ice)	Maximum Condenser Water Use (gal/100 lbs Ice)
Ice Making Head	Water	<500	7.80-0.0055H	200-0.022H
		- 500 and <1436	5.58-0.0011H	200-0.022H
		- 1436	4.0	200-0.022H
Ice Making Head	Air	<450	10.26-0.0086H	Not Applicable
		- 450	6.89-0.0011H	Not Applicable
Remote Condensing (but not remote compressor)	Air	<1000	8.85-0.0038H	Not Applicable
		- 1000	5.10	Not Applicable
Remote Condensing and Remote Compressor	Air	<934	8.85-0.0038H	Not Applicable
		- 934	5.3	Not Applicable
Self Contained	Water	<200	11.40-0.019H	191-0.0315H
		- 200	7.60	191-0.0315H
Self Contained	Air	<175	18.0-0.0469H	Not Applicable
		- 175	9.80	Not Applicable

H = Harvest rate in pounds per 24 hours.  
Water use is for the condenser only and does not include potable water used to make ice.

(2)(A) The Secretary may issue, by rule, standard levels for types of automatic commercial ice makers that are not covered by paragraph (1).

(B) The standards established under subparagraph (A) shall apply to products manufactured on or after the date that is—

(i) 3 years after the date on which the rule is published under subparagraph (A); or

(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the date on which the final rule is published.

(3)(A) Not later than January 1, 2015, with respect to the standards established under paragraph (1), and, with respect to the standards established under paragraph (2), not later than 5 years after the date on which the standards take effect, the Secretary shall issue a final rule to determine whether amending the applicable standards is technologically feasible and economically justified.

(B) Not later than 5 years after the effective date of any amended standards under subparagraph (A) or the publication of a final rule determining that amending the standards is not technologically feasible or economically justified, the Secretary shall issue a final rule to determine whether amending the standards established under paragraph (1) or the amended standards, as applicable, is technologically feasible or economically justified.

(C) If the Secretary issues a final rule under subparagraph (A) or (B) establishing amended standards, the final rule shall provide that the amended standards apply to products manufactured on or after the date that is—

(i) 3 years after the date on which the final amended standard is published; or

(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the date on which the final amended standard is published.

(4) A final rule issued under paragraph (2) or (3) shall establish standards at the maximum level that is technically feasible and economically justified, as provided in subsections (o) and (p) of section 6295 of this title.

**(e) Commercial clothes washers**

(1) Each commercial clothes washer manufactured on or after January 1, 2007, shall have—

(A) a Modified Energy Factor of at least 1.26; and

(B) a Water Factor of not more than 9.5.

(2)(A)(i) Not later than January 1, 2010, the Secretary shall publish a final rule to determine whether the standards established under paragraph (1) should be amended.

(ii) The rule published under clause (i) shall provide that any amended standard shall apply to products manufactured 3 years after the date on which the final amended standard is published.

(B)(i) Not later than January 1, 2015, the Secretary shall publish a final rule to determine whether the standards established under paragraph (1) should be amended.

(ii) The rule published under clause (i) shall provide that any amended standard shall apply to products manufactured 3 years after the date on which the final amended standard is published.

**(f) Walk-in coolers and walk-in freezers**

**(1) In general**

Subject to paragraphs (2) through (5), each walk-in cooler or walk-in freezer manufactured on or after January 1, 2009, shall—

(A) have automatic door closers that firmly close all walk-in doors that have been closed to within 1 inch of full closure, except that this subparagraph shall not apply to doors wider than 3 feet 9 inches or taller than 7 feet;

(B) have strip doors, spring hinged doors, or other method of minimizing infiltration when doors are open;

(C) contain wall, ceiling, and door insulation of at least R-25 for coolers and R-32 for freezers, except that this subparagraph shall not apply to glazed portions of doors nor to structural members;

(D) contain floor insulation of at least R-28 for freezers;

(E) for evaporator fan motors of under 1 horsepower and less than 460 volts, use—

(i) electronically commutated motors (brushless direct current motors); or

(ii) 3-phase motors;

(F) for condenser fan motors of under 1 horsepower, use—

(i) electronically commutated motors;

(ii) permanent split capacitor-type motors; or

(iii) 3-phase motors; and

(G) for all interior lights, use light sources with an efficacy of 40 lumens per watt or more, including ballast losses (if any), except that light sources with an efficacy of 40 lumens per watt or less, including ballast losses (if any), may be used in conjunction with a timer or device that turns off the lights within 15 minutes of when the walk-in cooler or walk-in freezer is not occupied by people.

**(2) Electronically commutated motors**

**(A) In general**

The requirements of paragraph (1)(E)(i) for electronically commutated motors shall take effect January 1, 2009, unless, prior to that date, the Secretary determines that such motors are only available from 1 manufacturer.

**(B) Other types of motors**

In carrying out paragraph (1)(E)(i) and subparagraph (A), the Secretary may allow other types of motors if the Secretary determines that, on average, those other motors use no more energy in evaporator fan applications than electronically commutated motors.

**(C) Maximum energy consumption level**

The Secretary shall establish the maximum energy consumption level under subparagraph (B) not later than January 1, 2010.

**(3) Additional specifications**

Each walk-in cooler or walk-in freezer with transparent reach-in doors manufactured on or after January 1, 2009, shall also meet the following specifications:

(A) Transparent reach-in doors for walk-in freezers and windows in walk-in freezer doors shall be of triple-pane glass with either heat-reflective treated glass or gas fill.

(B) Transparent reach-in doors for walk-in coolers and windows in walk-in cooler doors shall be—



(i) double-pane glass with heat-reflective treated glass and gas fill; or

(ii) triple-pane glass with either heat-reflective treated glass or gas fill.

(C) If the appliance has an antisweat heater without antisweat heat controls, the appliance shall have a total door rail, glass, and frame heater power draw of not more than 7.1 watts per square foot of door opening (for freezers) and 3.0 watts per square foot of door opening (for coolers).

(D) If the appliance has an antisweat heater with antisweat heat controls, and the total door rail, glass, and frame heater power draw is more than 7.1 watts per square foot of door opening (for freezers) and 3.0 watts per square foot of door opening (for coolers), the antisweat heat controls shall reduce the energy use of the antisweat heater in a quantity corresponding to the relative humidity in the air outside the door or to the condensation on the inner glass pane.

#### (4) Performance-based standards

##### (A) In general

Not later than January 1, 2012, the Secretary shall publish performance-based standards for walk-in coolers and walk-in freezers that achieve the maximum improvement in energy that the Secretary determines is technologically feasible and economically justified.

##### (B) Application

###### (i) In general

Except as provided in clause (ii), the standards shall apply to products described in subparagraph (A) that are manufactured beginning on the date that is 3 years after the final rule is published.

###### (ii) Delayed effective date

If the Secretary determines, by rule, that a 3-year period is inadequate, the Secretary may establish an effective date for products manufactured beginning on the date that is not more than 5 years after the date of publication of a final rule for the products.

#### (5) Amendment of standards

##### (A) In general

Not later than January 1, 2020, the Secretary shall publish a final rule to determine if the standards established under paragraph (4) should be amended.

##### (B) Application

###### (i) In general

Except as provided in clause (ii), the rule shall provide that the standards shall apply to products manufactured beginning on the date that is 3 years after the final rule is published.

###### (ii) Delayed effective date

If the Secretary determines, by rule, that a 3-year period is inadequate, the Secretary may establish an effective date for products manufactured beginning on the date that is not more than 5 years after

the date of publication of a final rule for the products.

(Pub. L. 94-163, title III, §342, as added Pub. L. 95-619, title IV, §441(a), Nov. 9, 1978, 92 Stat. 3269; amended Pub. L. 102-486, title I, §122(d), Oct. 24, 1992, 106 Stat. 2810; Pub. L. 109-58, title I, §136(b)-(e), Aug. 8, 2005, 119 Stat. 636-641; Pub. L. 110-140, title III, §§305(b), 306(c), 312(b), 313(b)(1), 314(b), Dec. 19, 2007, 121 Stat. 1554, 1559, 1564, 1568, 1570.)

#### AMENDMENT OF SUBSECTION (b)

*Pub. L. 110-140, title III, §313(b), Dec. 19, 2007, 121 Stat. 1568, provided that, effective on the date that is 3 years after Dec. 19, 2007, subsection (b) of this section is amended by redesignating paragraphs (2) and (3) as (3) and (4), respectively, and by adding a new paragraph (2) to read as follows:*

##### (2) ELECTRIC MOTORS.—

(A) *GENERAL PURPOSE ELECTRIC MOTORS (SUBTYPE I).—Except as provided in subparagraph (B), each general purpose electric motor (subtype I) with a power rating of 1 horsepower or greater, but not greater than 200 horsepower, manufactured (alone or as a component of another piece of equipment) after the 3-year period beginning on December 19, 2007, shall have a nominal full load efficiency that is not less than as defined in NEMA MG-1 (2006) Table 12-12.*

(B) *FIRE PUMP MOTORS.—Each fire pump motor manufactured (alone or as a component of another piece of equipment) after the 3-year period beginning on December 19, 2007, shall have nominal full load efficiency that is not less than as defined in NEMA MG-1 (2006) Table 12-11.*

(C) *GENERAL PURPOSE ELECTRIC MOTORS (SUBTYPE II).—Each general purpose electric motor (subtype II) with a power rating of 1 horsepower or greater, but not greater than 200 horsepower, manufactured (alone or as a component of another piece of equipment) after the 3-year period beginning on December 19, 2007, shall have a nominal full load efficiency that is not less than as defined in NEMA MG-1 (2006) Table 12-11.*

(D) *NEMA DESIGN B, GENERAL PURPOSE ELECTRIC MOTORS.—Each NEMA Design B, general purpose electric motor with a power rating of more than 200 horsepower, but not greater than 500 horsepower, manufactured (alone or as a component of another piece of equipment) after the 3-year period beginning on December 19, 2007, shall have a nominal full load efficiency that is not less than as defined in NEMA MG-1 (2006) Table 12-11.*

#### REFERENCES IN TEXT

Clauses (i) and (ii)(II), referred to in subsec. (a)(6)(B), probably mean clauses (i) and (ii)(II) of subsec. (a)(6)(A) of this section.

#### AMENDMENTS

2007—Subsec. (a)(1). Pub. L. 110-140, §314(b)(1), (2), in introductory provisions, inserted “(including single package vertical air conditioners and single package vertical heat pumps)” after “heating equipment” and struck out “but before January 1, 2010,” after “January 1, 1994.”

Subsec. (a)(2). Pub. L. 110-140, §314(b)(1), inserted “(including single package vertical air conditioners and single package vertical heat pumps)” after “heating equipment” in introductory provisions.

Subsec. (a)(6). Pub. L. 110-140, §305(b), inserted heading, added subpars. (A) to (C), redesignated former subpar. (C) as (D), and struck out former subpars. (A) and (B) which related to, in subpar. (A), establishment of amended uniform national standards for certain air conditioning and heating equipment and products if ASHRAE/IES Standard 90.1 had been amended and, if such standard had not been amended, initiation of a rulemaking to determine whether a more stringent standard would result in additional energy conservation and be technologically feasible and economically justified, and, in subpar. (B), establishment of an amended standard, including factors to be considered, if a rule had been issued pursuant to a subpar. (A) determination and prohibition of an amended standard which would decrease energy efficiency or would likely result in the unavailability of a product type.

Subsec. (a)(6)(B)(iii). Pub. L. 110-140, §306(c), added cl. (iii) at end.

Subsec. (a)(7). Pub. L. 110-140, §314(b)(3), (4)(A), in introductory provisions, inserted “(other than single package vertical air conditioners and single package vertical heat pumps)” after “heating equipment” and struck out “manufactured on or after January 1, 2010,” before “shall meet”.

Subsec. (a)(7)(A) to (C). Pub. L. 110-140, §314(b)(4)(B), substituted “For equipment manufactured on or after January 1, 2010, the” for “The”.

Subsec. (a)(7)(D). Pub. L. 110-140, §314(b)(4)(C), added subpar. (D).

Subsec. (a)(8), (9). Pub. L. 110-140, §314(b)(3), inserted “(other than single package vertical air conditioners and single package vertical heat pumps)” after “heating equipment” in introductory provisions.

Subsec. (a)(10). Pub. L. 110-140, §314(b)(5), added par. (10).

Subsec. (f). Pub. L. 110-140, §312(b), added subsec. (f). 2005—Subsec. (a). Pub. L. 109-58, §136(b)(1), substituted “Small, large, and very large” for “Small and large” in heading.

Subsec. (a)(1). Pub. L. 109-58, §136(b)(2), inserted “but before January 1, 2010,” after “January 1, 1994,” in introductory provisions.

Subsec. (a)(2). Pub. L. 109-58, §136(b)(3), inserted “but before January 1, 2010,” after “January 1, 1995,” in introductory provisions.

Subsec. (a)(6)(A). Pub. L. 109-58, §136(b)(4)(A), designated existing provisions as cl. (i), substituted “January 1, 2010” for “October 24, 1992”, inserted “and very large commercial package air conditioning and heating equipment, or if ASHRAE/IES Standard 90.1, as in effect on October 24, 1992, is amended with respect to any” after “large commercial package air conditioning and heating equipment,” and added cl. (ii).

Subsec. (a)(6)(C)(ii). Pub. L. 109-58, §136(b)(4)(B), inserted “and very large commercial package air conditioning and heating equipment” after “large commercial package air conditioning and heating equipment”.

Subsec. (a)(7) to (9). Pub. L. 109-58, §136(b)(5), added pars. (7) to (9).

Subsecs. (c) to (e). Pub. L. 109-58, §136(c)–(e), added subsecs. (c) to (e).

1992—Pub. L. 102-486 amended section generally, substituting present provisions for former provisions requiring Secretary to conduct evaluations of electric motors and pumps and other industrial equipment for purposes of determining standards.

#### EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-140, title III, §313(b)(2), Dec. 19, 2007, 121 Stat. 1569, provided that: “The amendments made by paragraph (1) [amending this section] take effect on the date that is 3 years after the date of enactment of this Act [Dec. 19, 2007].”

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

## § 6314. Test procedures

### (a) Prescription by Secretary; requirements

#### (1) TEST PROCEDURES.—

(A)<sup>1</sup> AMENDMENT.—At least once every 7 years, the Secretary shall conduct an evaluation of each class of covered equipment and—

(i) if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of paragraphs (2) and (3), shall prescribe test procedures for the class in accordance with this section; or

(ii) shall publish notice in the Federal Register of any determination not to amend a test procedure.

(2) Test procedures prescribed in accordance with this section shall be reasonably designed to produce test results which reflect energy efficiency, energy use, and estimated operating costs of a type of industrial equipment (or class thereof) during a representative average use cycle (as determined by the Secretary), and shall not be unduly burdensome to conduct.

(3) If the test procedure is a procedure for determining estimated annual operating costs, such procedure shall provide that such costs shall be calculated from measurements of energy use in a representative average-use cycle (as determined by the Secretary), and from representative average unit costs of the energy needed to operate such equipment during such cycle. The Secretary shall provide information to manufacturers of covered equipment respecting representative average unit costs of energy.

(4)(A) With respect to small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, very large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks to which standards are applicable under section 6313 of this title, the test procedures shall be those generally accepted industry testing procedures or rating procedures developed or recognized by the Air-Conditioning and Refrigeration Institute or by the American Society of Heating, Refrigerating and Air Conditioning Engineers, as referenced in ASHRAE/IES Standard 90.1 and in effect on June 30, 1992.

(B) If such an industry test procedure or rating procedure for small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, very large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, or unfired hot water storage tanks is amended, the Secretary shall amend the test procedure for the product as necessary to be consistent with the amended industry test procedure or rating procedure unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing

<sup>1</sup> So in original. No subpar. (B) has been enacted.

evidence, that to do so would not meet the requirements for test procedures described in paragraphs (2) and (3) of this subsection.

(C) If the Secretary prescribes a rule containing such a determination, the rule may establish an amended test procedure for such product that meets the requirements of paragraphs (2) and (3) of this subsection. In establishing any amended test procedure under this subparagraph or subparagraph (B), the Secretary shall follow the procedures and meet the requirements specified in section 6293(e) of this title.

(5)(A) With respect to electric motors to which standards are applicable under section 6313 of this title, the test procedures shall be the test procedures specified in NEMA Standards Publication MG1-1987 and IEEE Standard 112 Test Method B for motor efficiency, as in effect on October 24, 1992.

(B) If the test procedure requirements of NEMA Standards Publication MG-1987 and IEEE Standard 112 Test Method B for motor efficiency are amended, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such amended test procedure requirements unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures described in paragraphs (2) and (3) of this subsection.

(C) If the Secretary prescribes a rule containing such a determination, the rule may establish amended test procedures for such electric motors that meets the requirements of paragraphs (2) and (3) of this subsection. In establishing any amended test procedure under this subparagraph or subparagraph (B), the Secretary shall follow the procedures and meet the requirements specified in section 6293(e) of this title.

(6)(A)(i) In the case of commercial refrigerators, freezers, and refrigerator-freezers, the test procedures shall be—

(I) the test procedures determined by the Secretary to be generally accepted industry testing procedures; or

(II) rating procedures developed or recognized by the ASHRAE or by the American National Standards Institute.

(ii) In the case of self-contained refrigerators, freezers, and refrigerator-freezers to which standards are applicable under paragraphs (2) and (3) of section 6313(c) of this title, the initial test procedures shall be the ASHRAE 117 test procedure that is in effect on January 1, 2005.

(B)(i)<sup>2</sup> In the case of commercial refrigerators, freezers, and refrigerator-freezers with doors covered by the standards adopted in February 2002, by the California Energy Commission, the rating temperatures shall be the integrated average temperature of 38 degrees F ( $\pm$  2 degrees F) for refrigerator compartments and 0 degrees F ( $\pm$  2 degrees F) for freezer compartments.

(C) The Secretary shall issue a rule in accordance with paragraphs (2) and (3) to establish the appropriate rating temperatures for the other products for which standards will be established under section 6313(c)(4) of this title.

(D) In establishing the appropriate test temperatures under this subparagraph, the Secretary shall follow the procedures and meet the requirements under section 6293(e) of this title.

(E)(i) Not later than 180 days after the publication of the new ASHRAE 117 test procedure, if the ASHRAE 117 test procedure for commercial refrigerators, freezers, and refrigerator-freezers is amended, the Secretary shall, by rule, amend the test procedure for the product as necessary to ensure that the test procedure is consistent with the amended ASHRAE 117 test procedure, unless the Secretary makes a determination, by rule, and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures under paragraphs (2) and (3).

(ii) If the Secretary determines that 180 days is an insufficient period during which to review and adopt the amended test procedure or rating procedure under clause (i), the Secretary shall publish a notice in the Federal Register stating the intent of the Secretary to wait not longer than 1 additional year before putting into effect an amended test procedure or rating procedure.

(F)(i) If a test procedure other than the ASHRAE 117 test procedure is approved by the American National Standards Institute, the Secretary shall, by rule—

(I) review the relative strengths and weaknesses of the new test procedure relative to the ASHRAE 117 test procedure; and

(II) based on that review, adopt one new test procedure for use in the standards program.

(ii) If a new test procedure is adopted under clause (i)—

(I) section 6293(e) of this title shall apply; and

(II) subparagraph (B) shall apply to the adopted test procedure.

(7)(A) In the case of automatic commercial ice makers, the test procedures shall be the test procedures specified in Air-Conditioning and Refrigeration Institute Standard 810-2003, as in effect on January 1, 2005.

(B)(i) If Air-Conditioning and Refrigeration Institute Standard 810-2003 is amended, the Secretary shall amend the test procedures established in subparagraph (A) as necessary to be consistent with the amended Air-Conditioning and Refrigeration Institute Standard, unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures under paragraphs (2) and (3).

(ii) If the Secretary issues a rule under clause (i) containing a determination described in clause (ii), the rule may establish an amended test procedure for the product that meets the requirements of paragraphs (2) and (3).

(C) The Secretary shall comply with section 6293(e) of this title in establishing any amended test procedure under this paragraph.

(8) With respect to commercial clothes washers, the test procedures shall be the same as the test procedures established by the Secretary for residential clothes washers under section 6295(g) of this title.

(9) WALK-IN COOLERS AND WALK-IN FREEZERS.—

<sup>2</sup> So in original. No cl. (ii) has been enacted.

(A) IN GENERAL.—For the purpose of test procedures for walk-in coolers and walk-in freezers:

(i) The R value shall be the 1/K factor multiplied by the thickness of the panel.

(ii) The K factor shall be based on ASTM test procedure C518-2004.

(iii) For calculating the R value for freezers, the K factor of the foam at 20°F (average foam temperature) shall be used.

(iv) For calculating the R value for coolers, the K factor of the foam at 55°F (average foam temperature) shall be used.

(B) TEST PROCEDURE.—

(i) IN GENERAL.—Not later than January 1, 2010, the Secretary shall establish a test procedure to measure the energy-use of walk-in coolers and walk-in freezers.

(ii) COMPUTER MODELING.—The test procedure may be based on computer modeling, if the computer model or models have been verified using the results of laboratory tests on a significant sample of walk-in coolers and walk-in freezers.

**(b) Publication in Federal Register; presentment of oral and written data, views, and arguments by interested persons**

Before prescribing any final test procedures under this section, the Secretary shall—

(1) publish proposed test procedures in the Federal Register; and

(2) afford interested persons an opportunity (of not less than 45 days' duration) to present oral and written data, views, and arguments on the proposed test procedures.

**(c) Reevaluations**

(1) The Secretary shall, not later than 3 years after the date of prescribing a test procedure under this section (and from time to time thereafter), conduct a reevaluation of such procedure and, on the basis of such reevaluation, shall determine if such test procedure should be amended. In conducting such reevaluation, the Secretary shall take into account such information as he deems relevant, including technological developments relating to the energy efficiency of the type (or class) of covered equipment involved.

(2) If the Secretary determines under paragraph (1) that a test procedure should be amended, he shall promptly publish in the Federal Register proposed test procedures incorporating such amendments and afford interested persons an opportunity to present oral and written data, views, and arguments. Such comment period shall not be less than 45 days' duration.

**(d) Prohibited representations**

(1) Effective 180 days (or, in the case of small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water

storage tanks, 360 days) after a test procedure rule applicable to any covered equipment is prescribed under this section, no manufacturer, distributor, retailer, or private labeler may make any representation—

(A) in writing (including any representation on a label), or

(B) in any broadcast advertisement,

respecting the energy consumption of such equipment or cost of energy consumed by such equipment, unless such equipment has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

(2) On the petition of any manufacturer, distributor, retailer, or private labeler, filed not later than the 60th day before the expiration of the period involved, the 180-day period referred to in paragraph (1) may be extended by the Secretary with respect to the petitioner (but in no event for more than an additional 180 days) if he finds that the requirements of paragraph (1) would impose on such petitioner an undue hardship (as determined by the Secretary).

**(e) Assistance by National Institute of Standards and Technology**

The Secretary may direct the National Institute of Standards and Technology to provide such assistance as the Secretary deems necessary to carry out his responsibilities under this part, including the development of test procedures.

(Pub. L. 94-163, title III, §343, as added Pub. L. 95-619, title IV, §441(a), Nov. 9, 1978, 92 Stat. 3270; amended Pub. L. 100-418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433; Pub. L. 102-486, title I, §122(b), (f)(2), Oct. 24, 1992, 106 Stat. 2808, 2817; Pub. L. 109-58, title I, §136(f), Aug. 8, 2005, 119 Stat. 641; Pub. L. 110-140, title III, §§302(b), 312(c), Dec. 19, 2007, 121 Stat. 1552, 1566.)

AMENDMENTS

2007—Subsec. (a). Pub. L. 110-140, §302(b), inserted subsec. heading, added par. (1), and struck out former par. (1) which read as follows: "The Secretary may conduct an evaluation of a class of covered equipment and may prescribe test procedures for such class in accordance with the provisions of this section."

Subsec. (a)(9). Pub. L. 110-140, §312(c), added par. (9). 2005—Subsec. (a)(4)(A), (B). Pub. L. 109-58, §136(f)(1)(A), inserted "very large commercial package air conditioning and heating equipment," after "large commercial package air conditioning and heating equipment,".

Subsec. (a)(6) to (8). Pub. L. 109-58, §136(f)(1)(B), added pars. (6) to (8).

Subsec. (d)(1). Pub. L. 109-58, §136(f)(2), inserted "very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers," after "large commercial package air conditioning and heating equipment," in introductory provisions.

1992—Subsec. (a)(1). Pub. L. 102-486, §122(b)(1)(A), added par. (1) and struck out former par. (1) which read as follows: "If the Secretary has conducted an evaluation of a class of covered equipment under section 6313 of this title, he may prescribe test procedures for such class in accordance with the following provisions of this section."

Subsec. (a)(4), (5). Pub. L. 102-486, §122(b)(1)(B), added pars. (4) and (5).

Subsecs. (c), (d). Pub. L. 102-486, §122(f)(2), redesignated subsec. (d), relating to reevaluations, as (c).

Subsec. (d)(1). Pub. L. 102-486, §122(b)(2), inserted “(or, in the case of small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks, 360 days)” after “180 days”.

1988—Subsec. (e). Pub. L. 100-418 substituted “National Institute of Standards and Technology” for “National Bureau of Standards”.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

**§ 6315. Labeling**

**(a) Prescription by Secretary**

If the Secretary has prescribed test procedures under section 6314 of this title for any class of covered equipment, he shall prescribe a labeling rule applicable to such class of covered equipment in accordance with the following provisions of this section.

**(b) Disclosure of energy efficiency of articles of covered equipment**

A labeling rule prescribed in accordance with this section shall require that each article of covered equipment which is in the type (or class) of industrial equipment to which such rule applies, discloses by label, the energy efficiency of such article, determined in accordance with test procedures under section 6314 of this title. Such rule may also require that such disclosure include the estimated operating costs and energy use, determined in accordance with test procedures under section 6314 of this title.

**(c) Inclusion of requirements**

A rule prescribed in accordance with this section shall include such requirements as the Secretary determines are likely to assist purchasers in making purchasing decisions, including—

(1) requirements and directions for display of any label,

(2) requirements for including on any label, or separately attaching to, or shipping with, the covered equipment, such additional information relating to energy efficiency, energy use, and other measures of energy consumption, including instructions for the maintenance, use, or repair of the covered equipment, as the Secretary determines necessary to provide adequate information to purchasers, and

(3) requirements that printed matter which is displayed or distributed at the point of sale of such equipment shall disclose such information as may be required under this section to be disclosed on the label of such equipment.

**(d) Labeling rules applicable to electric motors**

Subject to subsection (h) of this section, not later than 12 months after the Secretary establishes test procedures for electric motors under section 6314 of this title, the Secretary shall prescribe labeling rules under this section applicable to electric motors taking into consideration NEMA Standards Publication MG1-1987. Such rules shall provide that the labeling of any elec-

tric motor manufactured after the 12-month period beginning on the date the Secretary prescribes such labeling rules, shall—

(1) indicate the energy efficiency of the motor on the permanent nameplate attached to such motor;

(2) prominently display the energy efficiency of the motor in equipment catalogs and other material used to market the equipment; and

(3) include such other markings as the Secretary determines necessary solely to facilitate enforcement of the standards established for electric motors under section 6313 of this title.

**(e) Labeling rules for air conditioning and heating equipment**

Subject to subsection (h) of this section, not later than 12 months after the Secretary establishes test procedures for small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers, walk-in coolers and walk-in freezers, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks under section 6314 of this title, the Secretary shall prescribe labeling rules under this section for such equipment. Such rules shall provide that the labeling of any small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers, walk-in coolers and walk-in freezers, packaged terminal air conditioner, packaged terminal heat pump, warm-air furnace, packaged boiler, storage water heater, instantaneous water heater, and unfired hot water storage tank manufactured after the 12-month period beginning on the date the Secretary prescribes such rules shall—

(1) indicate the energy efficiency of the equipment on the permanent nameplate attached to such equipment or other nearby permanent marking;

(2) prominently display the energy efficiency of the equipment in new equipment catalogs used by the manufacturer to advertise the equipment; and

(3) include such other markings as the Secretary determines necessary solely to facilitate enforcement of the standards established for such equipment under section 6313 of this title.

**(f) Consultation with Federal Trade Commission**

Before prescribing any labeling rules for a type (or class) of covered equipment, the Secretary shall consult with, and obtain the written views of, the Federal Trade Commission with respect to such rules. The Federal Trade Commission shall promptly provide such written views upon the request of the Secretary.

**(g) Publication in Federal Register; presentment of oral and written data, views, and arguments of interested persons**

(1) Before prescribing any labeling rules under this section, the Secretary shall—

(A) publish proposed labeling rules in the Federal Register, and

(B) afford interested persons an opportunity (of not less than 45 days' duration) to present oral and written data, views, and arguments on the proposed rules.

(2) A labeling rule prescribed under this section shall take effect not later than 3 months after the date of prescription of such rule, except that such rules may take effect not later than 6 months after such date of prescription if the Secretary determines that such extension is necessary to allow persons subject to such rules adequate time to come into compliance with such rules.

**(h) Restrictions on Secretary's authority to promulgate rules**

The Secretary shall not promulgate labeling rules for any class of industrial equipment unless he has determined that—

(1) labeling in accordance with this section is technologically and economically feasible with respect to such class;

(2) significant energy savings will likely result from such labeling; and

(3) labeling in accordance with this section is likely to assist consumers in making purchasing decisions.

**(i) Tests for accuracy of information contained on labels**

When requested by the Secretary, any manufacturer of industrial equipment to which a rule under this section applies shall supply at the manufacturer's expense a reasonable number of articles of such covered equipment to any laboratory or testing facility designated by the Secretary, or permit representatives of such laboratory or facility to test such equipment at the site where it is located, for purposes of ascertaining whether the information set out on the label, or otherwise required to be disclosed, as required under this section, is accurate. Any reasonable charge levied by the laboratory or facility for such testing shall be borne by the United States, if and to the extent provided in appropriations Acts.

**(j) Products completed prior to effective date of rules**

A labeling rule under this section shall not apply to any article of covered equipment the manufacture of which was completed before the effective date of such rule.

**(k) Labeling authority under Federal Trade Commission Act**

Until such time as labeling rules under this section take effect with respect to a type (or class) of covered equipment, this section shall not affect any authority of the Commission under the Federal Trade Commission Act [15 U.S.C. 41 et seq.] to require labeling with respect to energy consumption of such type (or class) of covered equipment.

(Pub. L. 94-163, title III, §344, as added Pub. L. 95-619, title IV, §441(a), Nov. 9, 1978, 92 Stat. 3271;

amended Pub. L. 102-486, title I, §122(c), Oct. 24, 1992, 106 Stat. 2809; Pub. L. 109-58, title I, §136(g), Aug. 8, 2005, 119 Stat. 643; Pub. L. 110-140, title III, §312(d), Dec. 19, 2007, 121 Stat. 1567.)

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsec. (k), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

AMENDMENTS

2007—Subsec. (e). Pub. L. 110-140 inserted “walk-in coolers and walk-in freezers,” after “commercial clothes washers,” in two places in introductory provisions.

2005—Subsec. (e). Pub. L. 109-58 inserted “very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers,” after “large commercial package air conditioning and heating equipment,” in two places in introductory provisions.

1992—Subsec. (a). Pub. L. 102-486, §122(c)(1), substituted “shall prescribe” for “may prescribe”.

Subsec. (c). Pub. L. 102-486, §122(c)(2), substituted “shall include” for “may include”.

Subsecs. (d) to (k). Pub. L. 102-486, §122(c)(3), (4), added subsecs. (d) and (e) and redesignated former subsecs. (d) to (i) as (f) to (k), respectively.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

**§ 6316. Administration, penalties, enforcement, and preemption**

(a) The provisions of section 6296(a), (b), and (d) of this title, the provisions of subsections (l) through (s) of section 6295 of this title, and section<sup>1</sup> 6297 through 6306 of this title shall apply with respect to this part (other than the equipment specified in subparagraphs (B) through (G) of section 6311(1) of this title) to the same extent and in the same manner as they apply in part A. In applying such provisions for the purposes of this part—

(1) references to sections 6293, 6294, and 6295 of this title shall be considered as references to sections 6314, 6315, and 6313 of this title, respectively;

(2) references to “this part” shall be treated as referring to part A-1;

(3) the term “equipment” shall be substituted for the term “product”;

(4) the term “Secretary” shall be substituted for “Commission” each place it appears (other than in section 6303(c) of title);

(5) section 6297(a) of this title shall be applied, in the case of electric motors, as if the National Appliance Energy Conservation Act of 1987 was the Energy Policy Act of 1992;

(6) section 6297(b)(1) of this title shall be applied as if electric motors were fluorescent lamp ballasts and as if the National Appliance Energy Conservation Amendments of 1988 were the Energy Policy Act of 1992;

(7) section 6297(b)(4) of this title shall be applied as if electric motors were fluorescent

<sup>1</sup> So in original. Probably should be “sections”.

lamp ballasts and as if paragraph (5) of section 6295(g) of this title were section 6313 of this title;

(8) notwithstanding any other provision of law, a regulation or other requirement adopted by a State or subdivision of a State contained in a State or local building code for new construction concerning the energy efficiency or energy use of an electric motor covered under this part is not superseded by the standards for such electric motor established or prescribed under section 6313(b) of this title if such regulation or requirement is identical to the standards established or prescribed under such section; and

(9) in the case of commercial clothes washers, section 6297(b)(1) of this title shall be applied as if the National Appliance Energy Conservation Act of 1987 was the Energy Policy Act of 2005.

(b)(1) The provisions of section 6295(p)(5)<sup>2</sup> of this title, section 6296(a), (b), and (d) of this title, section 6297(a) of this title, and sections 6298 through 6306 of this title shall apply with respect to the equipment specified in subparagraphs (B) through (G) of section 6311(1) of this title to the same extent and in the same manner as they apply in part A.<sup>3</sup> In applying such provisions for the purposes of such equipment, paragraphs (1), (2), (3), and (4) of subsection (a) of this section shall apply.

(2)(A) A standard prescribed or established under section 6313(a) of this title shall, beginning on the effective date of such standard, supersede any State or local regulation concerning the energy efficiency or energy use of a product for which a standard is prescribed or established pursuant to such section.

(B) Notwithstanding subparagraph (A), a standard prescribed or established under section 6313(a) of this title shall not supersede a standard for such a product contained in a State or local building code for new construction if—

(i) the standard in the building code does not require that the energy efficiency of such product exceed the applicable minimum energy efficiency requirement in amended ASHRAE/IES Standard 90.1; and

(ii) the standard in the building code does not take effect prior to the effective date of the applicable minimum energy efficiency requirement in amended ASHRAE/IES Standard 90.1.

(C) Notwithstanding subparagraph (A), a standard prescribed or established under section 6313(a) of this title shall not supersede the standards established by the State of California set forth in Table C-6, California Code of Regulations, Title 24, Part 2, Chapter 2-53, for water-source heat pumps below 135,000 Btu per hour (cooling capacity) that become effective on January 1, 1993.

(D) Notwithstanding subparagraph (A), a standard prescribed or established under section 6313(a) of this title shall not supersede a State regulation which has been granted a waiver by

the Secretary. The Secretary may grant a waiver pursuant to the terms, conditions, criteria, procedures, and other requirements specified in section 6297(d) of this title.

(c) With respect to any electric motor to which standards are applicable under section 6313(b) of this title, the Secretary shall require manufacturers to certify, through an independent testing or certification program nationally recognized in the United States, that such motor meets the applicable standard.

(d)(1) Except as provided in paragraphs (2) and (3), section 6297 of this title shall apply with respect to very large commercial package air conditioning and heating equipment to the same extent and in the same manner as section 6297 of this title applies under part A<sup>3</sup> on August 8, 2005.

(2) Any State or local standard issued before August 8, 2005, shall not be preempted until the standards established under section 6313(a)(9) of this title take effect on January 1, 2010.

(e)(1)(A) Subsections (a), (b), and (d) of section 6296 of this title, subsections (m) through (s) of section 6295 of this title, and sections 6298 through 6306 of this title shall apply with respect to commercial refrigerators, freezers, and refrigerator-freezers to the same extent and in the same manner as those provisions apply under part A.<sup>3</sup>

(B) In applying those provisions to commercial refrigerators, freezers, and refrigerator-freezers, paragraphs (1), (2), (3), and (4) of subsection (a) of this section shall apply.

(2)(A) Section 6297 of this title shall apply to commercial refrigerators, freezers, and refrigerator-freezers for which standards are established under paragraphs (2) and (3) of section 6313(c) of this title to the same extent and in the same manner as those provisions apply under part A<sup>3</sup> on August 8, 2005, except that any State or local standard issued before August 8, 2005, shall not be preempted until the standards established under paragraphs (2) and (3) of section 6313(c) of this title take effect.

(B) In applying section 6297 of this title in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) of this section shall apply.

(3)(A) Section 6297 of this title shall apply to commercial refrigerators, freezers, and refrigerator-freezers for which standards are established under section 6313(c)(4) of this title to the same extent and in the same manner as the provisions apply under part A<sup>3</sup> on the date of publication of the final rule by the Secretary, except that any State or local standard issued before the date of publication of the final rule by the Secretary shall not be preempted until the standards take effect.

(B) In applying section 6297 of this title in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) of this section shall apply.

(4)(A) If the Secretary does not issue a final rule for a specific type of commercial refrigerator, freezer, or refrigerator-freezer within the time frame specified in section 6313(c)(5) of this title, subsections (b) and (c) of section 6297 of this title shall not apply to that specific type of refrigerator, freezer, or refrigerator-freezer for

<sup>2</sup>So in original. Section 6295(p) of this title does not contain a par. (5).

<sup>3</sup>See References in Text note below.

the period beginning on the date that is 2 years after the scheduled date for a final rule and ending on the date on which the Secretary publishes a final rule covering the specific type of refrigerator, freezer, or refrigerator-freezer.

(B) Any State or local standard issued before the date of publication of the final rule shall not be preempted until the final rule takes effect.

(5)(A) In the case of any commercial refrigerator, freezer, or refrigerator-freezer to which standards are applicable under paragraphs (2) and (3) of section 6313(c) of this title, the Secretary shall require manufacturers to certify, through an independent, nationally recognized testing or certification program, that the commercial refrigerator, freezer, or refrigerator-freezer meets the applicable standard.

(B) The Secretary shall, to the maximum extent practicable, encourage the establishment of at least 2 independent testing and certification programs.

(C) As part of certification, information on equipment energy use and interior volume shall be made available to the Secretary.

(f)(1)(A)(i) Except as provided in clause (ii), section 6297 of this title shall apply to automatic commercial ice makers for which standards have been established under section 6313(d)(1) of this title to the same extent and in the same manner as the section applies under part A<sup>3</sup> on August 8, 2005.

(ii) Any State standard issued before August 8, 2005, shall not be preempted until the standards established under section 6313(d)(1) of this title take effect.

(B) In applying section 6297 of this title to the equipment under subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) of this section shall apply.

(2)(A)(i) Except as provided in clause (ii), section 6297 of this title shall apply to automatic commercial ice makers for which standards have been established under section 6313(d)(2) of this title to the same extent and in the same manner as the section applies under part A<sup>3</sup> on the date of publication of the final rule by the Secretary.

(ii) Any State standard issued before the date of publication of the final rule by the Secretary shall not be preempted until the standards established under section 6313(d)(2) of this title take effect.

(B) In applying section 6297 of this title in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) of this section shall apply.

(3)(A) If the Secretary does not issue a final rule for a specific type of automatic commercial ice maker within the time frame specified in section 6313(d) of this title, subsections (b) and (c) of section 6297 of this title shall no longer apply to the specific type of automatic commercial ice maker for the period beginning on the day after the scheduled date for a final rule and ending on the date on which the Secretary publishes a final rule covering the specific type of automatic commercial ice maker.

(B) Any State standard issued before the publication of the final rule shall not be preempted until the standards established in the final rule take effect.

(4)(A) The Secretary shall monitor whether manufacturers are reducing harvest rates below

tested values for the purpose of bringing non-complying equipment into compliance.

(B) If the Secretary finds that there has been a substantial amount of manipulation with respect to harvest rates under subparagraph (A), the Secretary shall take steps to minimize the manipulation, such as requiring harvest rates to be within 5 percent of tested values.

(g)(1)(A) If the Secretary does not issue a final rule for commercial clothes washers within the timeframe specified in section 6313(e)(2) of this title, subsections (b) and (c) of section 6297 of this title shall not apply to commercial clothes washers for the period beginning on the day after the scheduled date for a final rule and ending on the date on which the Secretary publishes a final rule covering commercial clothes washers.

(B) Any State or local standard issued before the date on which the Secretary publishes a final rule shall not be preempted until the standards established under section 6313(e)(2) of this title take effect.

(2) The Secretary shall undertake an educational program to inform owners of laundromats, multifamily housing, and other sites where commercial clothes washers are located about the new standard, including impacts on washer purchase costs and options for recovering those costs through coin collection.

(h) WALK-IN COOLERS AND WALK-IN FREEZERS.—

(1) COVERED TYPES.—

(A) RELATIONSHIP TO OTHER LAW.—

(i) IN GENERAL.—Except as otherwise provided in this subsection, section 6297 of this title shall apply to walk-in coolers and walk-in freezers for which standards have been established under paragraphs (1), (2), and (3) of section 6313(f) of this title to the same extent and in the same manner as the section applies under part A<sup>3</sup> on December 19, 2007.

(ii) STATE STANDARDS.—Any State standard prescribed before December 19, 2007, shall not be preempted until the standards established under paragraphs (1) and (2) of section 6313(f) of this title take effect.

(B) ADMINISTRATION.—In applying section 6297 of this title to equipment under subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

(2) FINAL RULE NOT TIMELY.—

(A) IN GENERAL.—If the Secretary does not issue a final rule for a specific type of walk-in cooler or walk-in freezer within the timeframe established under paragraph (4) or (5) of section 6313(f) of this title, subsections (b) and (c) of section 6297 of this title shall no longer apply to the specific type of walk-in cooler or walk-in freezer during the period—

(i) beginning on the day after the scheduled date for a final rule; and

(ii) ending on the date on which the Secretary publishes a final rule covering the specific type of walk-in cooler or walk-in freezer.

(B) STATE STANDARDS.—Any State standard issued before the publication of the final rule shall not be preempted until the standards established in the final rule take effect.



(3) CALIFORNIA.—Any standard issued in the State of California before January 1, 2011, under title 20 of the California Code of Regulations, that refers to walk-in coolers and walk-in freezers, for which standards have been established under paragraphs (1), (2), and (3) of section 6313(f) of this title, shall not be preempted until the standards established under section 6313(f)(3) of this title take effect.

(Pub. L. 94-163, title III, §345, as added Pub. L. 95-619, title IV, §441(a), Nov. 9, 1978, 92 Stat. 3272; amended Pub. L. 102-486, title I, §122(e), Oct. 24, 1992, 106 Stat. 2815; Pub. L. 105-388, §5(a)(7), Nov. 13, 1998, 112 Stat. 3478; Pub. L. 109-58, title I, §136(h), Aug. 8, 2005, 119 Stat. 643; Pub. L. 110-140, title III, §§308(b), 312(e), Dec. 19, 2007, 121 Stat. 1561, 1567.)

#### REFERENCES IN TEXT

The National Appliance Energy Conservation Act of 1987, referred to in subsec. (a)(5), (9), is Pub. L. 100-12, Mar. 17, 1987, 101 Stat. 103. For complete classification of this Act to the Code, see Short Title of 1987 Amendment note set out under section 6201 of this title and Tables.

The Energy Policy Act of 1992, referred to in subsec. (a)(5), (6), is Pub. L. 102-486, Oct. 24, 1992, 106 Stat. 2776. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of this title and Tables.

The Energy Policy Act of 2005, referred to in subsec. (a)(9), is Pub. L. 109-58, Aug. 8, 2005, 119 Stat. 594. For complete classification of this Act to the Code, see Short Title note set out under section 15801 of this title and Tables.

The National Appliance Energy Conservation Amendments of 1988, referred to in subsec. (a)(6), is Pub. L. 100-357, June 28, 1988, 102 Stat. 671. For complete classification of this Act to the Code, see Short Title of 1988 Amendments note set out under section 6201 of this title and Tables.

The references to “part A” in subsections (b)(1), (d)(1), (e)(1)(A), (2)(A), (3)(A), (f)(1)(A)(i), (2)(A)(i), and (h)(1)(A)(i) are shown in those subsections as they appear in the original Act. Those references in the original probably should have been to “part B”, meaning part B of title III of Pub. L. 94-163, which is classified generally to part A of this subchapter.

#### AMENDMENTS

2007—Subsec. (a). Pub. L. 110-140, §312(e)(1), substituted “subparagraphs (B) through (G)” for “subparagraphs (B), (C), (D), (E), and (F)” in introductory provisions.

Subsec. (b)(1). Pub. L. 110-140, §§308(b), 312(e)(1), inserted “section 6295(p)(5) of this title,” after “The provisions of” and substituted “subparagraphs (B) through (G)” for “subparagraphs (B), (C), (D), (E), and (F)”.

Subsec. (h). Pub. L. 110-140, §312(e)(2), added subsec. (h).

2005—Subsec. (a)(9). Pub. L. 109-58, §136(h)(1), added par. (9).

Subsec. (b)(1). Pub. L. 109-58, §136(h)(2), substituted “part A” for “part B”, which for purposes of codification had been translated as “part A” thus requiring no change in text.

Subsecs. (d) to (g). Pub. L. 109-58, §136(h)(3), added subsections (d) to (g).

1998—Subsec. (c). Pub. L. 105-388 inserted “standard” after “meets the applicable”.

1992—Pub. L. 102-486, §122(e)(3), substituted “enforcement, and preemption” for “and enforcement” in section catchline.

Subsec. (a). Pub. L. 102-486, §122(e)(1)(A), inserted “(other than the equipment specified in subparagraphs (B), (C), (D), (E), and (F) of section 6311(l) of this title)” after “to this part” and substituted “, the provisions of

subsections (l) through (s) of section 6295 of this title, and section 6297” for “and sections 6298”.

Subsec. (a)(1). Pub. L. 102-486, §122(e)(1)(B), substituted “, 6294, and 6295 of this title” for “and 6294 of this title” and “6314, 6315, and 6313 of this title, respectively” for “6314 and 6315 of this title, respectively”.

Subsec. (a)(5) to (8). Pub. L. 102-486, §122(e)(1)(C)-(E), added pars. (5) to (8).

Subsecs. (b), (c). Pub. L. 102-486, §122(e)(2), added subsections (b) and (c).

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

### § 6317. Energy conservation standards for high-intensity discharge lamps, distribution transformers, and small electric motors

#### (a) High-intensity discharge lamps and distribution transformers

(1) The Secretary shall, within 30 months after October 24, 1992, prescribe testing requirements for those high-intensity discharge lamps and distribution transformers for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

(2) The Secretary shall, within 18 months after the date on which testing requirements are prescribed by the Secretary pursuant to paragraph (1), prescribe, by rule, energy conservation standards for those high-intensity discharge lamps and distribution transformers for which the Secretary prescribed testing requirements under paragraph (1).

(3) Any standard prescribed under paragraph (2) with respect to high-intensity discharge lamps shall apply to such lamps manufactured 36 months after the date such rule is published.

#### (b) Small electric motors

(1) The Secretary shall, within 30 months after October 24, 1992, prescribe testing requirements for those small electric motors for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

(2) The Secretary shall, within 18 months after the date on which testing requirements are prescribed by the Secretary pursuant to paragraph (1), prescribe, by rule, energy conservation standards for those small electric motors for which the Secretary prescribed testing requirements under paragraph (1).

(3) Any standard prescribed under paragraph (2) shall apply to small electric motors manufactured 60 months after the date such rule is published or, in the case of small electric motors which require listing or certification by a nationally recognized testing laboratory, 84 months after such date. Such standards shall not apply to any small electric motor which is a component of a covered product under section 6292(a) of this title or a covered equipment under section 6311 of this title.

#### (c) Consideration of criteria under other law

In establishing any standard under this section, the Secretary shall take into consideration

the criteria contained in section 6295(n) of this title.

**(d) Prescription of labeling requirements by Secretary**

The Secretary shall, within six months after the date on which energy conservation standards are prescribed by the Secretary for high-intensity discharge lamps and distribution transformers pursuant to subsection (a)(2) of this section and small electric motors pursuant to subsection (b)(2) of this section, prescribe labeling requirements for such lamps, transformers, and small electric motors.

**(e) Compliance by manufacturers with labeling requirements**

Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for a product under subsection (d) of this section, each manufacturer of a product to which such a rule applies shall provide a label which meets, and is displayed in accordance with, the requirements of such rule.

**(f) New covered products; distribution of non-conforming products prohibited; construction with other law**

(1) After the date on which a manufacturer must provide a label for a product pursuant to subsection (e) of this section—

(A) each such product shall be considered, for purposes of paragraphs (1) and (2) of section 6302(a) of this title, a new covered product to which a rule under section 6294 of this title applies; and

(B) it shall be unlawful for any manufacturer or private labeler to distribute in commerce any new product for which an energy conservation standard is prescribed under subsection (a)(2) or (b)(2) of this section which is not in conformity with the applicable energy conservation standard.

(2) For purposes of section 6303(a) of this title, paragraph (1) of this subsection shall be considered to be a part of section 6302 of this title.

(Pub. L. 94-163, title III, §346, as added Pub. L. 95-619, title IV, §441(a), Nov. 9, 1978, 92 Stat. 3272; amended Pub. L. 102-486, title I, §124(a), Oct. 24, 1992, 106 Stat. 2832.)

AMENDMENTS

1992—Pub. L. 102-486 amended section generally, substituting provisions requiring energy conservation standards for high-intensity discharge lamps, distribution transformers, and small electric motors, for provisions authorizing appropriations for fiscal years 1978 and 1979.

STUDY OF UTILITY DISTRIBUTION TRANSFORMERS;  
REPORT TO CONGRESS

Section 124(c) of Pub. L. 102-486 provided that: "The Secretary shall evaluate the practicability, cost-effectiveness, and potential energy savings of replacing, or upgrading components of, existing utility distribution transformers during routine maintenance and, not later than 18 months after the date of the enactment of this Act [Oct. 24, 1992], report the findings of such evaluation to the Congress with recommendations on how such energy savings, if any, could be achieved."

PART B—STATE ENERGY CONSERVATION PLANS

CODIFICATION

This part, originally designated part C and subsequently redesignated part D by Pub. L. 95-619, title IV,

§441(a), Nov. 9, 1978, 92 Stat. 3267, was changed to part B for purposes of codification.

**§ 6321. Congressional findings and declaration of purpose**

(a) The Congress finds that—

(1) the development and implementation by States of laws, policies, programs, and procedures to conserve and to improve efficiency in the use of energy will have an immediate and substantial effect in reducing the rate of growth of energy demand and in minimizing the adverse social, economic, political, and environmental impacts of increasing energy consumption;

(2) the development and implementation of energy conservation programs by States will most efficiently and effectively minimize any adverse economic or employment impacts of changing patterns of energy use and meet local economic, climatic, geographic, and other unique conditions and requirements of each State; and

(3) the Federal Government has a responsibility to foster and promote comprehensive energy conservation programs and practices by establishing guidelines for such programs and providing overall coordination, technical assistance, and financial support for specific State initiatives in energy conservation.

(b) It is the purpose of this part to promote the conservation of energy and reduce the rate of growth of energy demand by authorizing the Secretary to establish procedures and guidelines for the development and implementation of specific State energy conservation programs and to provide Federal financial and technical assistance to States in support of such programs.

(Pub. L. 94-163, title III, §361, Dec. 22, 1975, 89 Stat. 932; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-619 substituted "Secretary" for "Administrator", meaning Administrator of the Federal Energy Administration.

REPORT ON COORDINATION OF ENERGY CONSERVATION  
PROGRAMS

Section 623 of Pub. L. 95-619 provided that not later than 6 months after Nov. 9, 1978, the Secretary of Energy submit a report on the coordination of Federal energy conservation programs involving State and local government.

**§ 6322. State energy conservation plans**

**(a) Feasibility reports**

The Secretary shall, by rule, within 60 days after December 22, 1975, prescribe guidelines for the preparation of a State energy conservation feasibility report. The Secretary shall invite the Governor of each State to submit, within 3 months after the effective date of such guidelines, such a report. Such report shall include—

(1) an assessment of the feasibility of establishing a State energy conservation goal, which goal shall consist of a reduction, as a result of the implementation of the State energy conservation plan described in this section, of 5 percent or more in the total amount

of energy consumed in such State in the year 1980 from the projected energy consumption for such State in the year 1980, and

(2) a proposal by such State for the development of a State energy conservation plan to achieve such goal.

**(b) Guidelines**

The Secretary shall, by rule, within 6 months after December 22, 1975, prescribe guidelines with respect to measures required to be included in, and guidelines for the development, modification, and funding of, State energy conservation plans. The Secretary shall invite the Governor of each State to submit, within 5 months after the effective date of such guidelines, a report. Such report shall include—

(1) a proposed State energy conservation plan designed to result in scheduled progress toward, and achievement of, the State energy conservation goal of such State; and

(2) a detailed description of the requirements, including the estimated cost of implementation and the estimated energy savings, associated with each functional category of energy conservation included in the State energy conservation plan.

**(c) Mandatory features of plans**

Each proposed State energy conservation plan to be eligible for Federal assistance under this part shall include—

(1) mandatory lighting efficiency standards for public buildings (except public buildings owned or leased by the United States);

(2) programs to promote the availability and use of carpools, vanpools, and public transportation (except that no Federal funds provided under this part shall be used for subsidizing fares for public transportation);

(3) mandatory standards and policies relating to energy efficiency to govern the procurement practices of such State and its political subdivisions;

(4) mandatory thermal efficiency standards and insulation requirements for new and renovated buildings (except buildings owned or leased by the United States);

(5) a traffic law or regulation which, to the maximum extent practicable consistent with safety, permits the operator of a motor vehicle to turn such vehicle right at a red stop light after stopping and to turn such vehicle left from a one-way street onto a one-way street at a red light after stopping; and

(6) procedures for ensuring effective coordination among various local, State, and Federal energy conservation programs within the State, including any program administered within the Office of Technical and Financial Assistance of the Department of Energy and the Low Income Home Energy Assistance Program administered by the Department of Health and Human Services.

**(d) Optional features of plans**

Each proposed State energy conservation plan may include—

(1) restrictions governing the hours and conditions of operation of public buildings (except buildings owned or leased by the United States);

(2) restrictions on the use of decorative or nonessential lighting;

(3) programs to increase transportation energy efficiency, including programs to accelerate the use of alternative transportation fuels for State government vehicles, fleet vehicles, taxis, mass transit, and privately owned vehicles;

(4) programs of public education to promote energy conservation;

(5) programs for financing energy efficiency and renewable energy capital investments, projects, and programs—

(A) which may include loan programs and performance contracting programs for leveraging of additional public and private sector funds, and programs which allow rebates, grants, or other incentives for the purchase and installation of energy efficiency and renewable energy measures; or

(B) in addition to or in lieu of programs described in subparagraph (A), which may be used in connection with public or nonprofit buildings owned and operated by a State, a political subdivision of a State or an agency or instrumentality of a State, or an organization exempt from taxation under section 501(c)(3) of title 26;

(6) programs for encouraging and for carrying out energy audits with respect to buildings and industrial facilities (including industrial processes) within the State;

(7) programs to promote the adoption of integrated energy plans which provide for—

(A) periodic evaluation of a State's energy needs, available energy resources (including greater energy efficiency), and energy costs; and

(B) utilization of adequate and reliable energy supplies, including greater energy efficiency, that meet applicable safety, environmental, and policy requirements at the lowest cost;

(8) programs to promote energy efficiency in residential housing, such as—

(A) programs for development and promotion of energy efficiency rating systems for newly constructed housing and existing housing so that consumers can compare the energy efficiency of different housing; and

(B) programs for the adoption of incentives for builders, utilities, and mortgage lenders to build, service, or finance energy efficient housing;

(9) programs to identify unfair or deceptive acts or practices which relate to the implementation of energy efficiency measures and renewable resource energy measures and to educate consumers concerning such acts or practices;

(10) programs to modify patterns of energy consumption so as to reduce peak demands for energy and improve the efficiency of energy supply systems, including electricity supply systems;

(11) programs to promote energy efficiency as an integral component of economic development planning conducted by State, local, or other governmental entities or by energy utilities;

(12) in accordance with subsection (f)(2) of this section, programs to implement the Energy Technology Commercialization Services Program;

(13) programs (enlisting appropriate trade and professional organizations in the development and financing of such programs) to provide training and education (including, if appropriate, training workshops, practice manuals, and testing for each area of energy efficiency technology) to building designers and contractors involved in building design and construction or in the sale, installation, and maintenance of energy systems and equipment to promote building energy efficiency improvements;

(14) programs for the development of building retrofit standards and regulations, including retrofit ordinances enforced at the time of the sale of a building;

(15) support for prefeasibility and feasibility studies for projects that utilize renewable energy and energy efficiency resource technologies in order to facilitate access to capital and credit for such projects;

(16) programs to facilitate and encourage the voluntary use of renewable energy technologies for eligible participants in Federal agency programs, including the Rural Electrification Administration and the Farmers Home Administration; and

(17) any other appropriate method or programs to conserve and to promote efficiency in the use of energy.

**(e) Standby plans**

The Governor of any State may submit to the Secretary a State energy conservation plan which is a standby energy conservation plan to significantly reduce energy demand by regulating the public and private consumption of energy during a severe energy supply interruption, which plan may be separately eligible for Federal assistance under this part without regard to subsections (c) and (d) of this section.

**(f) Energy Technology Commercialization Services Program**

(1) The purposes of this subsection are to—

(A) strengthen State outreach programs to aid small and start-up businesses;

(B) foster a broader application of engineering principles and techniques to energy technology products, manufacturing, and commercial production by small and start-up businesses; and

(C) foster greater assistance to small and start-up businesses in dealing with the Federal Government on energy technology related matters.

(2) The programs to implement the functions of the Energy Technology Commercialization Services Program, as provided for by subsection (d)(12) of this section, shall—

(A) aid small and start-up businesses in discovering useful and practical information relating to manufacturing and commercial production techniques and costs associated with new energy technologies;

(B) encourage the application of such information in order to solve energy technology

product development and manufacturing problems;

(C) establish an Energy Technology Commercialization Services Program affiliated with an existing entity in each State;

(D) coordinate engineers and manufacturers to aid small and start-up businesses in solving specific technical problems and improving the cost effectiveness of methods for manufacturing new energy technologies;

(E) assist small and start-up businesses in preparing the technical portions of proposals seeking financial assistance for new energy technology commercialization; and

(F) facilitate contract research between university faculty and students and small start-up businesses, in order to improve energy technology product development and independent quality control testing.

(3) Each State energy technology commercialization services program shall develop and maintain a data base of engineering and scientific experts in energy technologies and product commercialization interested in participating in the service. Such data base shall, at a minimum, include faculty of institutions of higher education, retired manufacturing experts, and national laboratory personnel.

(4) The services provided by the energy technology commercialization services programs established under this subsection shall be available to any small or start-up business. Such service programs shall charge fees which are affordable to a party eligible for assistance, which shall be determined by examining factors, including the following: (A) the costs of the services received; (B) the need of the recipient for the services; and (C) the ability of the recipient to pay for the services.

(5) For the purposes of this subsection, the term—

(A) “institution of higher education” has the same meaning as such term is defined in section 1001 of title 20;

(B) “small business” means a private firm that does not exceed the numerical size standard promulgated by the Small Business Administration under section 632(a) of title 15 for the Standard Industrial Classification (SIC) codes designated by the Secretary of Energy; and

(C) “start-up business” means a small business which has been in existence for 5 years or less.

**(g) Review of plans**

The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) or (e) of this section. Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.

(Pub. L. 94-163, title III, §362, Dec. 22, 1975, 89 Stat. 933; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 101-440, §§3(a), 4(a), (b), Oct. 18, 1990, 104 Stat. 1006-1008; Pub. L. 102-486, title I, §141(b), (c)(1), Oct. 24, 1992, 106

Stat. 2841; Pub. L. 105-244, title I, §102(a)(13)(E), Oct. 7, 1998, 112 Stat. 1620; Pub. L. 105-388, §5(a)(8), Nov. 13, 1998, 112 Stat. 3478; Pub. L. 109-58, title I, §123(a), Aug. 8, 2005, 119 Stat. 616.)

#### AMENDMENTS

- 2005—Subsec. (g). Pub. L. 109-58 added subsec. (g).
- 1998—Subsec. (a)(1). Pub. L. 105-388, §5(a)(8)(A), inserted “of” after “of the implementation”.
- Subsec. (d)(12). Pub. L. 105-388, §5(a)(8)(B), substituted “subsection (f)(2)” for “subsection (g)”.
- Subsec. (f)(5)(A). Pub. L. 105-244 substituted “section 1001” for “section 1141(a)”.
- 1992—Subsec. (c)(5). Pub. L. 102-486, §141(c)(1), substituted “and to turn such vehicle left from a one-way street onto a one-way street at a red light after stopping; and” for “; and”.
- Subsec. (d)(13) to (17). Pub. L. 102-486, §141(b), added pars. (13) to (16) and redesignated former par. (13) as (17).
- 1990—Subsec. (c)(6). Pub. L. 101-440, §3(a), added par. (6).
- Subsec. (d)(3). Pub. L. 101-440, §4(a)(1), added par. (3) and struck out former par. (3) which read as follows: “transportation controls;”.
- Subsec. (d)(5) to (13). Pub. L. 101-440, §4(a)(3), added pars. (5) to (13) and struck out former par. (5) which read as follows: “any other appropriate method or programs to conserve and to improve efficiency in the use of energy.”
- Subsec. (f). Pub. L. 101-440, §4(b), added subsec. (f).
- 1978—Subsecs. (a), (b), (e). Pub. L. 95-619 substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration, wherever appearing.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of Title 20, Education.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Section 141(c)(2) of Pub. L. 102-486 provided that: “The amendment made by paragraph (1) [amending this section] shall take effect January 1, 1995.”

#### STUDY REGARDING IMPACT OF PERMITTING RIGHT AND LEFT TURNS ON RED LIGHTS

- Section 141(d) of Pub. L. 102-486 provided that:
- “(1) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration, in consultation with State agencies with jurisdiction over traffic safety issues, shall conduct a study on the safety impact of the requirement specified in section 362(c)(5) of the Energy Policy and Conservation Act (42 U.S.C. 6322(c)(5)), particularly with respect to the impact on pedestrian safety.
- “(2) REPORT.—The Administrator shall report the findings of the study conducted under paragraph (1) to the Congress and the Secretary not later than 2 years after the date of the enactment of this Act [Oct. 24, 1992].”

### § 6323. Federal assistance to States

#### (a) Information, technical assistance, and assistance in preparation of reports and development, implementation, or modification of energy conservation plan

Upon request of the Governor of any State, the Secretary shall provide, subject to the availability of personnel and funds, information and technical assistance, including model State laws and proposed regulations relating to energy conservation, and other assistance in—

- (1) the preparation of the reports described in section 6322 of this title, and

- (2) the development, implementation, or modification of an energy conservation plan of such State submitted under section 6322(b) or (e) of this title.

#### (b) Financial assistance to assist State in development, implementation, or modification of energy conservation plan; submission of plan to and approval of Secretary; considerations governing approval; amount of assistance

(1) The Secretary may grant Federal financial assistance pursuant to this section for the purpose of assisting such State in the development of any such energy conservation plan or in the implementation or modification of a State energy conservation plan or part thereof which has been submitted to and approved by the Secretary pursuant to this part.

(2) In determining whether to approve a State energy conservation plan submitted under section 6322(b) or (e) of this title, the Secretary—

(A) shall take into account the impact of local economic, climatic, geographic, and other unique conditions and requirements of such State on the opportunity to conserve and to improve efficiency in the use of energy in such State; and

(B) may extend the period of time during which a State energy conservation feasibility report or State energy conservation plan may be submitted if the Secretary determines that participation by the State submitting such report or plan is likely to result in significant progress toward achieving the purposes of this chapter.

No such plan shall be disapproved without notice and an opportunity to present views.

(3) In determining the amount of Federal financial assistance to be provided to any State under this subsection, the Secretary shall consider—

(A) the contribution to energy conservation which can reasonably be expected,

(B) the number of people affected by such plan, and

(C) the consistency of such plan with the purposes of this chapter, and such other factors as the Secretary deems appropriate.

#### (c) Records

Each recipient of Federal financial assistance under subsection (b) of this section shall keep such records as the Secretary shall require, including records which fully disclose the amount and disposition by each recipient of the proceeds of such assistance, the total cost of the plan, program, projects, measures, or systems for which such assistance was given or used, the source and amount of funds for such plan, program, projects, measures, or systems not supplied by the Secretary, and such other records as the Secretary determines necessary to facilitate an effective audit and performance evaluation. The Secretary and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination, at reasonable times and under reasonable conditions, to any pertinent books, documents, papers, and records of any recipient of Federal assistance under this part.

**(d) Assistance as supplementing and not supplanting State and local funds**

Each State receiving Federal financial assistance pursuant to this section shall provide reasonable assurance to the Secretary that it has established policies and procedures designed to assure that Federal financial assistance under this part and under part E of this subchapter will be used to supplement, and not to supplant, State and local funds, and to the extent practicable, to increase the amount of such funds that otherwise would be available, in the absence of such Federal financial assistance, for those programs set forth in the State energy conservation plan approved pursuant to subsection (b) of this section.

**(e) Energy emergency planning program as prerequisite to assistance**

(1) Effective October 1, 1991, to be eligible for Federal financial assistance pursuant to this section, a State shall submit to the Secretary, as a supplement to its energy conservation plan, an energy supply disruption, as designed by the State consistent with applicable Federal and State law. The contingency plan provided for by the program shall include an implementation strategy or strategies (including regional coordination) for dealing with energy emergencies. The submission of such plan shall be for informational purposes only and without any requirement of approval by the Secretary.

(2) Federal financial assistance made available under this part to a State may be used to develop and conduct the energy emergency planning program requirement referred to in paragraph (1).

**(f) State buildings energy efficiency improvements incentive fund**

If the Secretary determines that a State has demonstrated a commitment to improving the energy efficiency of buildings within such State, the Secretary may, beginning in fiscal year 1994, provide up to \$1,000,000 to such State for deposit into a revolving fund established by such State for the purpose of financing energy efficiency improvements in State and local government buildings. In making such determination the Secretary shall consider whether—

(1) such State, or a majority of the units of local government with jurisdiction over building energy codes within such State, has adopted codes for energy efficiency in new buildings that are at least as stringent as American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.1-1989 (with respect to commercial buildings) and Council of American Building Officials Model Energy Code, 1992 (with respect to residential buildings);

(2) such State has established a program, including a revolving fund, to finance energy efficiency improvement projects in State and local government facilities and buildings; and

(3) such State has obtained funding from non-Federal sources, including but not limited to, oil overcharge funds, State or local government appropriations, or utility contributions (including rebates) equal to or greater than

three times the amount provided by the Secretary under this subsection for deposit into such revolving fund.

(Pub. L. 94-163, title III, §363, Dec. 22, 1975, 89 Stat. 934; Pub. L. 94-385, title IV, §432(b), (c), Aug. 14, 1976, 90 Stat. 1162; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 101-440, §3(b), Oct. 18, 1990, 104 Stat. 1007; Pub. L. 102-486, title I, §141(a)(1), Oct. 24, 1992, 106 Stat. 2840.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(2)(B), (3)(C), was in the original “this Act”, meaning Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, as amended, known as the Energy Policy and Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

AMENDMENTS

1992—Subsec. (f). Pub. L. 102-486 added subsec. (f).

1990—Subsecs. (d), (e). Pub. L. 101-440 added subsecs. (d) and (e).

1978—Pub. L. 95-619 substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration, wherever appearing.

1976—Subsec. (b)(2). Pub. L. 94-385, §432(b), inserted provision requiring notice and opportunity to present views prior to disapproval of plans.

Subsec. (c). Pub. L. 94-385, §432(c), inserted references to plan, measures, or systems wherever appearing and required that examinations be at reasonable times and under reasonable conditions.

**§ 6323a. Matching State contributions**

For the base State Energy Conservation Program (part D of the Energy Policy and Conservation Act, sections 361 through 366 [42 U.S.C. 6321-6326]), each State will hereafter match in cash or in kind not less than 20 percent of the Federal contribution.

(Pub. L. 98-473, title I, §101(c) [title II], Oct. 12, 1984, 98 Stat. 1837, 1861.)

REFERENCES IN TEXT

The Energy Policy and Conservation Act, referred to in text, is Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, as amended. Part D of title III of the Energy Policy and Conservation Act, as amended, is classified generally to this part (§6321 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1985, as enacted by Pub. L. 98-473, and not as part of the Energy Policy and Conservation Act which comprises this chapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation act:

Pub. L. 98-146, title II, Nov. 4, 1983, 97 Stat. 942.

**§ 6324. State energy efficiency goals**

Each State energy conservation plan with respect to which assistance is made available under this part on or after August 8, 2005, shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2012 as compared to calendar year 1990, and may contain interim goals.

(Pub. L. 94-163, title III, §364, Dec. 22, 1975, 89 Stat. 935; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 101-440, §2(a)(1), Oct. 18, 1990, 104 Stat. 1006; Pub. L. 109-58, title I, §123(b), Aug. 8, 2005, 119 Stat. 616.)

#### AMENDMENTS

2005—Pub. L. 109-58 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: “Each State energy conservation plan with respect to which assistance is made available under this part on or after October 1, 1991, shall contain a goal, consisting of an improvement of 10 percent or more in the efficiency of use of energy in the State concerned in the calendar year 2000 as compared to the calendar year 1990, and may contain interim goals.”

1990—Pub. L. 101-440 amended section generally. Prior to amendment, section read as follows: “Upon the basis of the reports submitted pursuant to this part and such other information as is available, the Secretary shall, at the earliest practicable date, set an energy conservation goal for each State for 1980 and may set interim goals. Such goal or goals shall consist of the maximum reduction in the consumption of energy during any year as a result of the implementation of the State energy conservation plan described in section 6322(b) of this title which is consistent with technological feasibility, financial resources, and economic objectives, by comparison with the projected energy consumption for such State in such year. The Secretary shall specify the assumptions used in the determination of the projected energy consumption in each State, taking into account population trends, economic growth, and the effects of national energy conservation programs.”

1978—Pub. L. 95-619 substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration, wherever appearing.

### § 6325. General provisions

#### (a) Rules

The Secretary may prescribe such rules as may be necessary or appropriate to carry out his authority under this part.

#### (b) Departmental consultation

In carrying out the provisions of sections 6322 and 6324 of this title and subsection (a) of section 6323 of this title, the Secretary shall consult with appropriate departments and Federal agencies.

#### (c) Annual report

The Secretary shall, as part of the report required under section 7267 of this title, report to the President and the Congress, and shall furnish copies of such report to the Governor of each State, on the operation of the program under this part. Such report shall include an estimate of the energy conservation achieved, the degree of State participation and achievement, a description of innovative conservation programs undertaken by individual States, and the recommendations of the Secretary, if any, for additional legislation.

#### (d) Duty of Federal Trade Commission to prevent unfair or deceptive practices or acts relating to implementation of energy measures

The Federal Trade Commission shall (1) cooperate with and assist State agencies which have primary responsibilities for the protection of consumers in activities aimed at preventing unfair and deceptive acts or practices affecting commerce which relate to the implementation

of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable-resource energy measures, and (2) undertake its own program, pursuant to the Federal Trade Commission Act [15 U.S.C. 41 et seq.], to prevent unfair or deceptive acts or practices affecting commerce which relate to the implementation of any such measures.

#### (e) List of energy measures eligible for financial assistance; designation of types and requirements of energy audits

Within 90 days after August 14, 1976, the Secretary shall—

(1) develop, by rule after consultation with the Secretary of Housing and Urban Development, and publish a list of energy conservation measures and renewable-resource energy measures which are eligible (on a national or regional basis) for financial assistance pursuant to section 1701z-8 of title 12 or section 6881 of this title;

(2) designate, by rule, the types of, and requirements for, energy audits.

#### (f) Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated \$125,000,000 for each of fiscal years 2007 through 2012.

#### (g) State Energy Advisory Board

(1)(A) There is hereby established within the Department of Energy a State Energy Advisory Board (hereafter in this subsection referred to as the “Board”) which shall consist of at least 18 and not more than 21 members appointed by the Secretary as soon as practicable but no later than September 30, 1991. At least eight of the members of the Board shall be persons who serve as directors of the State agency, or a division of such agency, responsible for developing State energy conservation plans pursuant to section 6322 of this title. At least four members shall be directors of State or local low income weatherization assistance programs. Other members shall be appointed from persons who have experience in energy efficiency or renewable energy programs from the private sector, consumer interest groups, utilities, public utility commissions, educational institutions, financial institutions, local government energy programs, or research institutions. A majority of the members of the Board shall be State employees.

(B)(i) Except as provided in clause (ii), the members of the Board shall serve a term of three years.

(ii) Of the members first appointed to the Board, one-third shall serve a term of one year, one-third shall serve a term of two years, and the remainder shall serve a term of three years, as specified by the Secretary.

(2) The Board shall—

(A) make recommendations to the Assistant Secretary for Conservation and Renewable Energy within the Department of Energy with respect to—

(i) the energy efficiency goals and objectives of the programs carried out under this part, part E of this subchapter, and under part A of title IV of the Energy Conservation

and Production Act [42 U.S.C. 6861 et seq.]; and

(ii) programmatic and administrative policies designed to strengthen and improve the programs referred to in clause (i), including actions that should be considered to encourage non-Federal resources (including private resources) to supplement Federal financial assistance;

(B) serve as a liaison between the States and such Department on energy efficiency and renewable energy resource programs; and

(C) encourage transfer of the results of research and development activities carried out by the Federal Government with respect to energy efficiency and renewable energy resource technologies.

(3) The Secretary shall designate one of the members of the Board to serve as its chairman and one to serve as its vice-chairman. The chairman and vice-chairman shall serve in those offices no longer than two years.

(4) The Secretary shall provide the Board with such reasonable services and facilities as may be necessary for the performance of its functions.

(5) The Board shall be nonpartisan.

(6) The Board may adopt administrative rules and procedures and may elect one of its members secretary of the Board.

(7) Consistent with Federal regulations, the Secretary shall reimburse members of the Board for expenses (including travel expenses) necessarily incurred by them in the performance of their duties.

(8) The Board shall meet at least twice a year and shall submit an annual report to the Secretary and the Congress on the activities carried out by the Board in the previous fiscal year, including an accounting of the expenses reimbursed under paragraph (7) with respect to the year for which the report is made and any recommendations it may have for administrative or legislative changes concerning the matters referred to in subparagraphs (A), (B), and (C) of paragraph (2).

(9) The Board shall continue until terminated by law.

(Pub. L. 94-163, title III, §365, Dec. 22, 1975, 89 Stat. 935; Pub. L. 94-385, title IV, §432(d), Aug. 14, 1976, 90 Stat. 1162; Pub. L. 95-619, title VI, §§621, 691(b)(2), Nov. 9, 1978, 92 Stat. 3283, 3288; Pub. L. 101-440, §§5, 8(a), Oct. 18, 1990, 104 Stat. 1009, 1015; Pub. L. 102-486, title I, §141(a)(2), Oct. 24, 1992, 106 Stat. 2841; Pub. L. 104-66, title I, §1052(f), Dec. 21, 1995, 109 Stat. 718; Pub. L. 105-388, §2(a), Nov. 13, 1998, 112 Stat. 3477; Pub. L. 109-58, title I, §123(c), Aug. 8, 2005, 119 Stat. 617; Pub. L. 110-140, title V, §531, Dec. 19, 2007, 121 Stat. 1665.)

#### REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsec. (d), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

The Energy Conservation and Production Act, referred to in subsec. (g)(2)(A)(i), is Pub. L. 94-385, Aug. 14, 1976, 90 Stat. 1125, as amended. Part A of title IV of the Act is classified generally to part A (§6861 et seq.)

of subchapter III of chapter 81 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of this title and Tables.

#### AMENDMENTS

2007—Subsec. (f). Pub. L. 110-140 substituted “\$125,000,000 for each of fiscal years 2007 through 2012” for “\$100,000,000 for each of the fiscal years 2006 and 2007 and \$125,000,000 for fiscal year 2008”.

2005—Subsec. (f). Pub. L. 109-58 substituted “\$100,000,000 for each of the fiscal years 2006 and 2007 and \$125,000,000 for fiscal year 2008” for “for fiscal years 1999 through 2003 such sums as may be necessary”.

1998—Subsec. (f). Pub. L. 105-388 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:

“(f)(1) Except as provided in paragraph (2), for the purpose of carrying out this part, there are authorized to be appropriated not to exceed \$25,000,000 for fiscal year 1991, \$35,000,000 for fiscal year 1992, and \$45,000,000 for fiscal year 1993.

“(2) For the purposes of carrying out section 6323(f) of this title, there is authorized to be appropriated for fiscal year 1994 and each fiscal year thereafter such sums as may be necessary, to remain available until expended.”

1995—Subsec. (c). Pub. L. 104-66 substituted “, as part of the report required under section 7267 of this title, report” for “report annually” in first sentence.

1992—Subsec. (f). Pub. L. 102-486 designated existing provisions as par. (1), substituted “Except as provided in paragraph (2), for the purpose” for “For the purpose”, and added par. (2).

1990—Subsec. (f). Pub. L. 101-440, §8(a), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “There are authorized to be appropriated for carrying out the provisions of this part (other than section 6327 of this title) \$50,000,000 for fiscal year 1976, \$50,000,000 for fiscal year 1977, \$50,000,000 for fiscal year 1978, and \$50,000,000 for fiscal year 1979.”

Subsec. (g). Pub. L. 101-440, §5, added subsec. (g).

1978—Subsecs. (a) to (c), (e). Pub. L. 95-619, §691(b)(2), substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration, wherever appearing.

Subsec. (f). Pub. L. 95-619, §621, authorized to be appropriated \$50,000,000 for fiscal year 1979.

1976—Subsec. (d). Pub. L. 94-385, §432(d)(1), (2), added subsec. (d). Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 94-385, §432(d)(2), added subsec. (e).

Subsec. (f). Pub. L. 94-385, §432(d)(1), (3), redesignated former subsec. (d) as (f) and inserted “(other than section 6327 of this title)” after “part”.

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which the 16th item on page 87 identifies a reporting provision which, as subsequently amended, is contained in subsec. (c) of this section and in which the 14th item on page 91 identifies a reporting provision in subsec. (g)(8) of this section), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

#### § 6326. Definitions

As used in this part—

(1) The term “appliance” means any article, such as a room air-conditioner, refrigerator-



freezer, or dishwasher, which the Secretary classifies as an appliance for purposes of this part.

(2) The term “building” means any structure which includes provision for a heating or cooling system, or both, or for a hot water system.

(3) The term “energy audit” means any process which identifies and specifies the energy and cost savings which are likely to be realized through the purchase and installation of particular energy conservation measures or renewable-resource energy measures and which—

(A) is carried out in accordance with rules of the Secretary; and

(B) imposes—

(i) no direct costs, with respect to individuals who are occupants of dwelling units in any State having a supplemental State energy conservation plan approved under section 6327<sup>1</sup> of this title, and

(ii) only reasonable costs, as determined by the Secretary, with respect to any person not described in clause (i).

Rules referred to in subparagraph (A) may include minimum qualifications for, and provisions with respect to conflicts of interest of, persons carrying out such energy audits.

(4) The term “energy conservation measure” means a measure which modifies any building, building system, energy consuming device associated with the building, or industrial plant, the construction of which has been completed prior to May 1, 1989, if such measure has been determined by means of an energy audit or by the Secretary, by rule under section 6325(e)(1) of this title, to be likely to maintain or improve the efficiency of energy use and to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as determined by the Secretary) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of—

(A) the useful life of the modification involved, as determined by the Secretary, or

(B) 15 years after the purchase and installation of such measure,

whichever is less. Such term does not include (i) the purchase or installation of any appliance, (ii) any conversion from one fuel or source of energy to another which is of a type which the Secretary, by rule, determines is ineligible on the basis that such type of conversion is inconsistent with national policy with respect to energy conservation or reduction of imports of fuels, or (iii) any measure, or type of measure, which the Secretary determines does not have as its primary purpose an improvement in efficiency of energy use.

(5) The term “industrial plant” means any fixed equipment or facility which is used in connection with, or as part of, any process or system for industrial production or output.

(6) The term “renewable-resource energy measure” means a measure which modifies

any building or industrial plant, the construction of which has been completed prior to August 14, 1976, if such measure has been determined by means of an energy audit or by the Secretary, by rule under section 6325(e)(1) of this title, to—

(A) involve changing, in whole or in part, the fuel or source of the energy used to meet the requirements of such building or plant from a depletable source of energy to a non-depletable source of energy; and

(B) be likely to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as determined by the Secretary) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of—

(i) the useful life of the modification involved, as determined by the Secretary, or

(ii) 25 years after the purchase and installation of such measure,

whichever is less.

Such term does not include the purchase or installation of any appliance.

(7) The term “public building” means any building which is open to the public during normal business hours.

(8) The term “transportation controls” means any plan, procedure, method, or arrangement, or any system of incentives, disincentives, restrictions, and requirements, which is designed to reduce the amount of energy consumed in transportation, except that the term does not include rationing of gasoline or diesel fuel.

(Pub. L. 94-163, title III, §366, Dec. 22, 1975, 89 Stat. 935; Pub. L. 94-385, title IV, §431, Aug. 14, 1976, 90 Stat. 1158; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 101-440, §2(b), Oct. 18, 1990, 104 Stat. 1006.)

#### REFERENCES IN TEXT

Section 6327 of this title, referred to in par. (3)(B)(i), was repealed by Pub. L. 101-440, §4(c)(1), Oct. 18, 1990, 104 Stat. 1009.

#### AMENDMENTS

1990—Par. (4). Pub. L. 101-440 substituted “building, building system, energy consuming device associated with the building, or industrial” for “building or industrial”, “May 1, 1989” for “August 14, 1976”, and “maintain or improve the efficiency” for “improve the efficiency”.

1978—Pars. (1), (3)(A), (B)(ii), (4), (A), (6), (B), (B)(i). Pub. L. 95-619 substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration, wherever appearing.

1976—Pub. L. 94-385 redesignated former pars. (1) and (2) as (7) and (8), respectively, and added pars. (1) to (6).

**§ 6327. Repealed. Pub. L. 101-440, §4(c)(1), Oct. 18, 1990, 104 Stat. 1009**

Section, Pub. L. 94-163, title III, §367, as added Pub. L. 94-385, title IV, §432(a), Aug. 14, 1976, 90 Stat. 1160; amended Pub. L. 95-91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 95-619, title VI, §§622, 691(b)(2), Nov. 9, 1978, 92 Stat. 3283, 3288, related to supplemental State energy conservation plans.

<sup>1</sup> See References in Text note below.

## PART C—INDUSTRIAL ENERGY EFFICIENCY

## CODIFICATION

This part was, in the original, designated part E and has been changed to part C for purposes of codification.

## PRIOR PROVISIONS

A prior part C, consisting of sections 6341 to 6346, related to voluntary industrial energy conservation, prior to repeal by Pub. L. 99-509, title III, §3101(b), Oct. 21, 1986, 100 Stat. 1888. This prior part C, which in the original Act had been designated part D and subsequently redesignated part E by Pub. L. 95-619, title IV, §441(a), Nov. 9, 1978, 92 Stat. 3267, was designated part C of this subchapter for purposes of codification.

## § 6341. Definitions

In this part:

**(1) Administrator**

The term “Administrator” means the Administrator of the Environmental Protection Agency.

**(2) Combined heat and power**

The term “combined heat and power system” means a facility that—

(A) simultaneously and efficiently produces useful thermal energy and electricity; and

(B) recovers not less than 60 percent of the energy value in the fuel (on a higher-heat-value basis) in the form of useful thermal energy and electricity.

**(3) Net excess power**

The term “net excess power” means, for any facility, recoverable waste energy recovered in the form of electricity in quantities exceeding the total consumption of electricity at the specific time of generation on the site at which the facility is located.

**(4) Project**

The term “project” means a recoverable waste energy project or a combined heat and power system project.

**(5) Recoverable waste energy**

The term “recoverable waste energy” means waste energy from which electricity or useful thermal energy may be recovered through modification of an existing facility or addition of a new facility.

**(6) Registry**

The term “Registry” means the Registry of Recoverable Waste Energy Sources established under section 6342(d) of this title.

**(7) Useful thermal energy**

The term “useful thermal energy” means energy—

(A) in the form of direct heat, steam, hot water, or other thermal form that is used in production and beneficial measures for heating, cooling, humidity control, process use, or other valid thermal end-use energy requirements; and

(B) for which fuel or electricity would otherwise be consumed.

**(8) Waste energy**

The term “waste energy” means—

(A) exhaust heat or flared gas from any industrial process;

(B) waste gas or industrial tail gas that would otherwise be flared, incinerated, or vented;

(C) a pressure drop in any gas, excluding any pressure drop to a condenser that subsequently vents the resulting heat; and

(D) such other forms of waste energy as the Administrator may determine.

**(9) Other terms**

The terms “electric utility”, “nonregulated electric utility”, “State regulated electric utility”, and other terms have the meanings given those terms in title I of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2611 et seq.).

(Pub. L. 94-163, title III, §371, as added Pub. L. 110-140, title IV, §451(a), Dec. 19, 2007, 121 Stat. 1623.)

## REFERENCES IN TEXT

The Public Utility Regulatory Policies Act of 1978, referred to in par. (9), is Pub. L. 95-617, Nov. 9, 1978, 92 Stat. 3117. Title I (§101 et seq.) of the Act enacted subchapters I to IV of chapter 46 (§2611 et seq.) of Title 16, Conservation, and section 6808 of this title, and amended sections 6802 to 6807 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 16 and Tables.

## PRIOR PROVISIONS

A prior section 6341, Pub. L. 94-163, title III, §371, Dec. 22, 1975, 89 Stat. 936; Pub. L. 95-619, title VI, §§601(c), 691(b)(2), Nov. 9, 1978, 92 Stat. 3283, 3288, defined terms used in former part C, prior to repeal by Pub. L. 99-509, title III, §3101(b), Oct. 21, 1986, 100 Stat. 1888.

## EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as a note under section 1824 of Title 2, The Congress.

## § 6342. Survey and Registry

**(a) Recoverable waste energy inventory program****(1) In general**

The Administrator, in cooperation with the Secretary and State energy offices, shall establish a recoverable waste energy inventory program.

**(2) Survey**

The program shall include—

(A) an ongoing survey of all major industrial and large commercial combustion sources in the United States (as defined by the Administrator) and the sites at which the sources are located; and

(B) a review of each source for the quantity and quality of waste energy produced at the source.

**(b) Criteria****(1) In general**

Not later than 270 days after December 19, 2007, the Administrator shall publish a rule for establishing criteria for including sites in the Registry.

**(2) Inclusions**

The criteria shall include—

(A) a requirement that, to be included in the Registry, a project at the site shall be determined to be economically feasible by virtue of offering a payback of invested costs not later than 5 years after the date of first full project operation (including incentives offered under this part);

(B) standards to ensure that projects proposed for inclusion in the Registry are not developed or used for the primary purpose of making sales of excess electric power under the regulatory provisions of this part; and

(C) procedures for contesting the listing of any source or site on the Registry by any State, utility, or other interested person.

**(c) Technical support**

On the request of the owner or operator of a source or site included in the Registry, the Secretary shall—

(1) provide to owners or operators of combustion sources technical support; and

(2) offer partial funding (in an amount equal to not more than one-half of total costs) for feasibility studies to confirm whether or not investment in recovery of waste energy or combined heat and power at a source would offer a payback period of 5 years or less.

**(d) Registry**

**(1) Establishment**

**(A) In general**

Not later than 1 year after December 19, 2007, the Administrator shall establish a Registry of Recoverable Waste Energy Sources, and sites on which the sources are located, that meet the criteria established under subsection (b).

**(B) Updates; availability**

The Administrator shall—

(i) update the Registry on a regular basis; and

(ii) make the Registry available to the public on the website of the Environmental Protection Agency.

**(C) Contesting listing**

Any State, electric utility, or other interested person may contest the listing of any source or site by submitting a petition to the Administrator.

**(2) Contents**

**(A) In general**

The Administrator shall register and include on the Registry all sites meeting the criteria established under subsection (b).

**(B) Quantity of recoverable waste energy**

The Administrator shall—

(i) calculate the total quantities of potentially recoverable waste energy from sources at the sites, nationally and by State; and

(ii) make public—

(I) the total quantities described in clause (i); and

(II) information on the criteria pollutant and greenhouse gas emissions savings that might be achieved with recovery of the waste energy from all sources and sites listed on the Registry.

**(3) Availability of information**

**(A) In general**

The Administrator shall notify owners or operators of recoverable waste energy sources and sites listed on the Registry prior to publishing the listing.

**(B) Detailed quantitative information**

**(i) In general**

Except as provided in clause (ii), the owner or operator of a source at a site may elect to have detailed quantitative information concerning the site not made public by notifying the Administrator of the election.

**(ii) Limited availability**

The information shall be made available to—

(I) the applicable State energy office; and

(II) any utility requested to support recovery of waste energy from the source pursuant to the incentives provided under section 6344 of this title.

**(iii) State totals**

Information concerning the site shall be included in the total quantity of recoverable waste energy for a State unless there are fewer than 3 sites in the State.

**(4) Removal of projects from registry**

**(A) In general**

Subject to subparagraph (B), as a project achieves successful recovery of waste energy, the Administrator shall—

(i) remove the related sites or sources from the Registry; and

(ii) designate the removed projects as eligible for incentives under section 6344 of this title.

**(B) Limitation**

No project shall be removed from the Registry without the consent of the owner or operator of the project if—

(i) the owner or operator has submitted a petition under section 6344 of this title; and

(ii) the petition has not been acted on or denied.

**(5) Ineligibility of certain sources**

The Administrator shall not list any source constructed after December 19, 2007, on the Registry if the Administrator determines that the source—

(A) was developed for the primary purpose of making sales of excess electric power under the regulatory provisions of this part; or

(B) does not capture at least 60 percent of the total energy value of the fuels used (on a higher-heating-value basis) in the form of useful thermal energy, electricity, mechanical energy, chemical output, or any combination thereof.

**(e) Self-certification**

**(1) In general**

Subject to any procedures that are established by the Administrator, an owner, opera-

tor, or third-party developer of a recoverable waste energy project that qualifies under standards established by the Administrator may self-certify the sites or sources of the owner, operator, or developer to the Administrator for inclusion in the Registry.

**(2) Review and approval**

To prevent a fraudulent listing, a site or source shall be included on the Registry only if the Administrator reviews and approves the self-certification.

**(f) New facilities**

As a new energy-consuming industrial facility is developed after December 19, 2007, to the extent the facility may constitute a site with recoverable waste energy that may qualify for inclusion on the Registry, the Administrator may elect to include the facility on the Registry, at the request of the owner, operator, or developer of the facility, on a conditional basis with the site to be removed from the Registry if the development ceases or the site fails to qualify for listing under this part.

**(g) Optimum means of recovery**

For each site listed in the Registry, at the request of the owner or operator of the site, the Administrator shall offer, in cooperation with Clean Energy Application Centers operated by the Secretary of Energy, suggestions for optimum means of recovery of value from waste energy stream in the form of electricity, useful thermal energy, or other energy-related products.

**(h) Revision**

Each annual report of a State under section 8258(a) of title 42 shall include the results of the survey for the State under this section.

**(i) Authorization of appropriations**

There are authorized to be appropriated to—

(1) the Administrator to create and maintain the Registry and services authorized by this section, \$1,000,000 for each of fiscal years 2008 through 2012; and

(2) the Secretary—

(A) to assist site or source owners and operators in determining the feasibility of projects authorized by this section, \$2,000,000 for each of fiscal years 2008 through 2012; and

(B) to provide funding for State energy office functions under this section, \$5,000,000.

(Pub. L. 94-163, title III, § 372, as added Pub. L. 110-140, title IV, § 451(a), Dec. 19, 2007, 121 Stat. 1624.)

PRIOR PROVISIONS

A prior section 6342, Pub. L. 94-163, title III, § 372, Dec. 22, 1975, 89 Stat. 936; Pub. L. 95-91, title III, § 301(a), title VII, §§ 703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 95-619, title VI, § 691(b)(2), Nov. 9, 1978, 92 Stat. 3288, related to establishment and maintenance of an energy efficiency program, prior to repeal by Pub. L. 99-509, title III, § 3101(b), Oct. 21, 1986, 100 Stat. 1888.

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as a note under section 1824 of Title 2, The Congress.

**§ 6343. Waste energy recovery incentive grant program**

**(a) Establishment**

The Secretary shall establish in the Department of Energy a waste energy recovery incentive grant program to provide incentive grants to—

(1) owners and operators of projects that successfully produce electricity or incremental useful thermal energy from waste energy recovery;

(2) utilities purchasing or distributing the electricity; and

(3) States that have achieved 80 percent or more of recoverable waste heat recovery opportunities.

**(b) Grants to projects and utilities**

**(1) In general**

The Secretary shall make grants under this section—

(A) to the owners or operators of waste energy recovery projects; and

(B) in the case of excess power purchased or transmitted by a electric utility, to the utility.

**(2) Proof**

Grants may only be made under this section on receipt of proof of waste energy recovery or excess electricity generation, or both, from the project in a form prescribed by the Secretary.

**(3) Excess electric energy**

**(A) In general**

In the case of waste energy recovery, a grant under this section shall be made at the rate of \$10 per megawatt hour of documented electricity produced from recoverable waste energy (or by prevention of waste energy in the case of a new facility) by the project during the first 3 calendar years of production, beginning on or after December 19, 2007.

**(B) Utilities**

If the project produces net excess power and an electric utility purchases or transmits the excess power, 50 percent of so much of the grant as is attributable to the net excess power shall be paid to the electric utility purchasing or transporting the net excess power.

**(4) Useful thermal energy**

In the case of waste energy recovery that produces useful thermal energy that is used for a purpose different from that for which the project is principally designed, a grant under this section shall be made to the owner or operator of the waste energy recovery project at the rate of \$10 for each 3,412,000 Btus of the excess thermal energy used for the different purpose.

**(c) Grants to States**

In the case of any State that has achieved 80 percent or more of waste heat recovery opportunities identified by the Secretary under this part, the Administrator shall make a 1-time grant to the State in an amount of not more

than \$1,000 per megawatt of waste-heat capacity recovered (or a thermal equivalent) to support State-level programs to identify and achieve additional energy efficiency.

**(d) Eligibility**

The Secretary shall—

(1) establish rules and guidelines to establish eligibility for grants under subsection (b);

(2) publicize the availability of the grant program known to owners or operators of recoverable waste energy sources and sites listed on the Registry; and

(3) award grants under the program on the basis of the merits of each project in recovering or preventing waste energy throughout the United States on an impartial, objective, and not unduly discriminatory basis.

**(e) Limitation**

The Secretary shall not award grants to any person for a combined heat and power project or a waste heat recovery project that qualifies for specific Federal tax incentives for combined heat and power or for waste heat recovery.

**(f) Authorization of appropriations**

There are authorized to be appropriated to the Secretary—

(1) to make grants to projects and utilities under subsection (b)—

(A) \$100,000,000 for fiscal year 2008 and \$200,000,000 for each of fiscal years 2009 through 2012; and

(B) such additional amounts for fiscal year 2008 and each fiscal year thereafter as may be necessary for administration of the waste energy recovery incentive grant program; and

(2) to make grants to States under subsection (b), \$10,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.

(Pub. L. 94-163, title III, §373, as added Pub. L. 110-140, title IV, §451(a), Dec. 19, 2007, 121 Stat. 1627.)

PRIOR PROVISIONS

A prior section 6343, Pub. L. 94-163, title III, §373, Dec. 22, 1975, 89 Stat. 936; Pub. L. 95-619, title VI, §§601(a), 691(b)(2), Nov. 9, 1978, 92 Stat. 3282, 3288, related to identification of major energy-consuming industries and corporations in the United States, prior to repeal by Pub. L. 99-509, title III, §3101(b), Oct. 21, 1986, 100 Stat. 1888.

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as a note under section 1824 of Title 2, The Congress.

**§ 6344. Additional incentives for recovery, use, and prevention of industrial waste energy**

**(a) Consideration of standard**

**(1) In general**

Not later than 180 days after the receipt by a State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority), or nonregulated electric utility, of a request from a project sponsor or owner or operator, the State regu-

latory authority or nonregulated electric utility shall—

(A) provide public notice and conduct a hearing respecting the standard established by subsection (b); and

(B) on the basis of the hearing, consider and make a determination whether or not it is appropriate to implement the standard to carry out the purposes of this part.

**(2) Relationship to State law**

For purposes of any determination under paragraph (1) and any review of the determination in any court, the purposes of this section supplement otherwise applicable State law.

**(3) Nonadoption of standard**

Nothing in this part prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to adopt any standard described in paragraph (1), pursuant to authority under otherwise applicable State law.

**(b) Standard for sales of excess power**

For purposes of this section, the standard referred to in subsection (a) shall provide that an owner or operator of a waste energy recovery project identified on the Registry that generates net excess power shall be eligible to benefit from at least 1 of the options described in subsection (c) for disposal of the net excess power in accordance with the rate conditions and limitations described in subsection (d).

**(c) Options**

The options referred to in subsection (b) are as follows:

**(1) Sale of net excess power to utility**

The electric utility shall purchase the net excess power from the owner or operator of the eligible waste energy recovery project during the operation of the project under a contract entered into for that purpose.

**(2) Transport by utility for direct sale to third party**

The electric utility shall transmit the net excess power on behalf of the project owner or operator to up to 3 separate locations on the system of the utility for direct sale by the owner or operator to third parties at those locations.

**(3) Transport over private transmission lines**

The State and the electric utility shall permit, and shall waive or modify such laws as would otherwise prohibit, the construction and operation of private electric wires constructed, owned, and operated by the project owner or operator, to transport the power to up to 3 purchasers within a 3-mile radius of the project, allowing the wires to use or cross public rights-of-way, without subjecting the project to regulation as a public utility, and according the wires the same treatment for safety, zoning, land use, and other legal privileges as apply or would apply to the wires of the utility, except that—

(A) there shall be no grant of any power of eminent domain to take or cross private property for the wires; and

(B) the wires shall be physically segregated and not interconnected with any portion of the system of the utility, except on the customer side of the revenue meter of the utility and in a manner that precludes any possible export of the electricity onto the utility system, or disruption of the system.

**(4) Agreed on alternatives**

The utility and the owner or operator of the project may reach agreement on any alternate arrangement and payments or rates associated with the arrangement that is mutually satisfactory and in accord with State law.

**(d) Rate conditions and criteria**

**(1) Definitions**

In this subsection:

**(A) Per unit distribution costs**

The term “per unit distribution costs” means (in kilowatt hours) the quotient obtained by dividing—

- (i) the depreciated book-value distribution system costs of a utility; by
- (ii) the volume of utility electricity sales or transmission during the previous year at the distribution level.

**(B) Per unit distribution margin**

The term “per unit distribution margin” means—

- (i) in the case of a State-regulated electric utility, a per-unit gross pretax profit equal to the product obtained by multiplying—

(I) the State-approved percentage rate of return for the utility for distribution system assets; by

(II) the per unit distribution costs; and

- (ii) in the case of a nonregulated utility, a per unit contribution to net revenues determined multiplying—

(I) the percentage (but not less than 10 percent) obtained by dividing—

(aa) the amount of any net revenue payment or contribution to the owners or subscribers of the nonregulated utility during the prior year; by

(bb) the gross revenues of the utility during the prior year to obtain a percentage; by

(II) the per unit distribution costs.

**(C) Per unit transmission costs**

The term “per unit transmission costs” means the total cost of those transmission services purchased or provided by a utility on a per-kilowatt-hour basis as included in the retail rate of the utility.

**(2) Options**

The options described in paragraphs (1) and (2) in subsection (c) shall be offered under purchase and transport rate conditions that reflect the rate components defined under paragraph (1) as applicable under the circumstances described in paragraph (3).

**(3) Applicable rates**

**(A) Rates applicable to sale of net excess power**

**(i) In general**

Sales made by a project owner or operator of a facility under the option described in subsection (c)(1) shall be paid for on a per kilowatt hour basis that shall equal the full undiscounted retail rate paid to the utility for power purchased by the facility minus per unit distribution costs, that applies to the type of utility purchasing the power.

**(ii) Voltages exceeding 25 kilovolts**

If the net excess power is made available for purchase at voltages that must be transformed to or from voltages exceeding 25 kilovolts to be available for resale by the utility, the purchase price shall further be reduced by per unit transmission costs.

**(B) Rates applicable to transport by utility for direct sale to third parties**

**(i) In general**

Transportation by utilities of power on behalf of the owner or operator of a project under the option described in subsection (c)(2) shall incur a transportation rate that shall equal the per unit distribution costs and per unit distribution margin, that applies to the type of utility transporting the power.

**(ii) Voltages exceeding 25 kilovolts**

If the net excess power is made available for transportation at voltages that must be transformed to or from voltages exceeding 25 kilovolts to be transported to the designated third-party purchasers, the transport rate shall further be increased by per unit transmission costs.

**(iii) States with competitive retail markets for electricity**

In a State with a competitive retail market for electricity, the applicable transportation rate for similar transportation shall be applied in lieu of any rate calculated under this paragraph.

**(4) Limitations**

**(A) In general**

Any rate established for sale or transportation under this section shall—

- (i) be modified over time with changes in the underlying costs or rates of the electric utility; and
- (ii) reflect the same time-sensitivity and billing periods as are established in the retail sales or transportation rates offered by the utility.

**(B) Limitation**

No utility shall be required to purchase or transport a quantity of net excess power under this section that exceeds the available capacity of the wires, meter, or other equipment of the electric utility serving the site unless the owner or operator of the project

agrees to pay necessary and reasonable upgrade costs.

**(e) Procedural requirements for consideration and determination**

**(1) Public notice and hearing**

**(A) In general**

The consideration referred to in subsection (a) shall be made after public notice and hearing.

**(B) Administration**

The determination referred to in subsection (a) shall be—

- (i) in writing;
- (ii) based on findings included in the determination and on the evidence presented at the hearing; and
- (iii) available to the public.

**(2) Intervention by Administrator**

The Administrator may intervene as a matter of right in a proceeding conducted under this section—

**(A) to calculate—**

- (i) the energy and emissions likely to be saved by electing to adopt 1 or more of the options; and
- (ii) the costs and benefits to ratepayers and the utility; and

**(B) to advocate for the waste-energy recovery opportunity.**

**(3) Procedures**

**(A) In general**

Except as otherwise provided in paragraphs (1) and (2), the procedures for the consideration and determination referred to in subsection (a) shall be the procedures established by the State regulatory authority or the nonregulated electric utility.

**(B) Multiple projects**

If there is more than 1 project seeking consideration simultaneously in connection with the same utility, the proceeding may encompass all such projects, if full attention is paid to individual circumstances and merits and an individual judgment is reached with respect to each project.

**(f) Implementation**

**(1) In general**

The State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority) or nonregulated electric utility may, to the extent consistent with otherwise applicable State law—

- (A) implement the standard determined under this section; or
- (B) decline to implement any such standard.

**(2) Nonimplementation of standard**

**(A) In general**

If a State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority) or nonregulated electric utility declines to implement any standard established by this section, the authority or nonregulated electric

utility shall state in writing the reasons for declining to implement the standard.

**(B) Availability to public**

The statement of reasons shall be available to the public.

**(C) Annual report**

The Administrator shall include in an annual report submitted to Congress a description of the lost opportunities for waste-heat recovery from the project described in subparagraph (A), specifically identifying the utility and stating the quantity of lost energy and emissions savings calculated.

**(D) New petition**

If a State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority) or nonregulated electric utility declines to implement the standard established by this section, the project sponsor may submit a new petition under this section with respect to the project at any time after the date that is 2 years after the date on which the State regulatory authority or nonregulated utility declined to implement the standard.

(Pub. L. 94-163, title III, §374, as added Pub. L. 110-140, title IV, §451(a), Dec. 19, 2007, 121 Stat. 1628.)

PRIOR PROVISIONS

Prior sections 6344 and 6344a were repealed by Pub. L. 99-509, title III, §3101(b), Oct. 21, 1986, 100 Stat. 1888.

Section 6344, Pub. L. 94-163, title III, §374, Dec. 22, 1975, 89 Stat. 936; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288, related to establishment of individual energy improvement targets for each of the 10 most energy-consuming industries.

Section 6344a, Pub. L. 94-163, title III, §374A, as added Pub. L. 95-619, title IV, §461(c), Nov. 9, 1978, 92 Stat. 3273, related to targets for increased utilization of energy-saving recovered materials for specified industries.

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as a note under section 1824 of Title 2, The Congress.

**§ 6345. Clean Energy Application Centers**

**(a) Renaming**

**(1) In general**

The Combined Heat and Power Application Centers of the Department of Energy are redesignated as Clean Energy Application Centers.

**(2) References**

Any reference in any law, rule, regulation, or publication to a Combined Heat and Power Application Center shall be treated as a reference to a Clean Energy Application Center.

**(b) Relocation**

**(1) In general**

In order to better coordinate efforts with the separate Industrial Assessment Centers and to ensure that the energy efficiency and, when applicable, the renewable nature of deploying mature clean energy technology is fully accounted for, the Secretary shall relocate the

administration of the Clean Energy Application Centers to the Office of Energy Efficiency and Renewable Energy within the Department of Energy.

**(2) Office of Electricity Delivery and Energy Reliability**

The Office of Electricity Delivery and Energy Reliability shall—

(A) continue to perform work on the role of technology described in paragraph (1) in support of the grid and the reliability and security of the technology; and

(B) shall assist the Clean Energy Application Centers in the work of the Centers with regard to the grid and with electric utilities.

**(c) Grants**

**(1) In general**

The Secretary shall make grants to universities, research centers, and other appropriate institutions to ensure the continued operations and effectiveness of 8 Regional Clean Energy Application Centers in each of the following regions (as designated for such purposes as of December 19, 2007):

- (A) Gulf Coast.
- (B) Intermountain.
- (C) Mid-Atlantic.
- (D) Midwest.
- (E) Northeast.
- (F) Northwest.
- (G) Pacific.
- (H) Southeast.

**(2) Establishment of goals and compliance**

In making grants under this subsection, the Secretary shall ensure that sufficient goals are established and met by each Center throughout the program duration concerning outreach and technology deployment.

**(d) Activities**

**(1) In general**

Each Clean Energy Application Center shall—

(A) operate a program to encourage deployment of clean energy technologies through education and outreach to building and industrial professionals;<sup>1</sup> and other individuals and organizations with an interest in efficient energy use; and

(B) provide project specific support to building and industrial professionals through assessments and advisory activities.

**(2) Types of activities**

Funds made available under this section may be used—

(A) to develop and distribute informational materials on clean energy technologies, including continuation of the 8 websites in existence on December 19, 2007;

(B) to develop and conduct target market workshops, seminars, Internet programs, and other activities to educate end users, regulators, and stakeholders in a manner that leads to the deployment of clean energy technologies;

(C) to provide or coordinate onsite assessments for sites and enterprises that may

consider deployment of clean energy technology;

(D) to perform market research to identify high profile candidates for clean energy deployment;

(E) to provide consulting support to sites considering deployment of clean energy technologies;

(F) to assist organizations developing clean energy technologies to overcome barriers to deployment; and

(G) to assist companies and organizations with performance evaluations of any clean energy technology implemented.

**(e) Duration**

**(1) In general**

A grant awarded under this section shall be for a period of 5 years<sup>2</sup>

**(2) Annual evaluations**

Each grant shall be evaluated annually for the continuation of the grant based on the activities and results of the grant.

**(f) Authorization**

There is authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 2008 through 2012.

(Pub. L. 94-163, title III, §375, as added Pub. L. 110-140, title IV, §451(a), Dec. 19, 2007, 121 Stat. 1632.)

PRIOR PROVISIONS

A prior section 6345, Pub. L. 94-163, title III, §375, Dec. 22, 1975, 89 Stat. 937; Pub. L. 95-619, title VI, §601(b), Nov. 9, 1978, 92 Stat. 3282, required reports on progress made in improving energy efficiency and achievement of energy efficiency improvement targets, prior to repeal by Pub. L. 99-509, title III, §3101(b), Oct. 21, 1986, 100 Stat. 1888.

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as a note under section 1824 of Title 2, The Congress.

**§ 6346. Repealed. Pub. L. 99-509, title III, § 3101(b), Oct. 21, 1986, 100 Stat. 1888**

Section, Pub. L. 94-163, title III, §376, Dec. 22, 1975, 89 Stat. 938; Pub. L. 95-619, title IV, §461(d)(1), title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3275, 3288, set forth general provisions relating to compliance with former part C reporting requirements, use of information, and absence of liability for failure to meet energy efficiency improvement targets.

**§ 6347. Omitted**

CODIFICATION

Section, Pub. L. 96-294, title V, §591, June 30, 1980, 94 Stat. 761, authorized appropriations to Secretary of Energy of \$40,000,000 for each of fiscal years ending Sept. 30, 1981 and 1982, for industrial energy conservation demonstration projects designed to substantially increase productivity in industry.

Section was enacted as part of the Energy Security Act, and not as part of the Energy Policy and Conservation Act which comprises this chapter.

<sup>1</sup> So in original. The semicolon probably should not appear.

<sup>2</sup> So in original. Probably should be followed by a period.



**§ 6348. Energy efficiency in industrial facilities****(a) Grant program****(1) In general**

The Secretary shall make grants to industry associations to support programs to improve energy efficiency in industry. In order to be eligible for a grant under this subsection, an industry association shall establish a voluntary energy efficiency improvement target program.

**(2) Awarding of grants**

The Secretary shall request project proposals and provide annual grants on a competitive basis. In evaluating grant proposals under this subsection, the Secretary shall consider—

- (A) potential energy savings;
- (B) potential environmental benefits;
- (C) the degree of cost sharing;
- (D) the degree to which new and innovative technologies will be encouraged;
- (E) the level of industry involvement;
- (F) estimated project cost-effectiveness; and
- (G) the degree to which progress toward the energy improvement targets can be monitored.

**(3) Eligible projects**

Projects eligible for grants under this subsection may include the following:

- (A) Workshops.
- (B) Training seminars.
- (C) Handbooks.
- (D) Newsletters.
- (E) Data bases.
- (F) Other activities approved by the Secretary.

**(4) Limitation on cost sharing**

Grants provided under this subsection shall not exceed \$250,000 and each grant shall not exceed 75 percent of the total cost of the project for which the grant is made.

**(5) Authorization**

There are authorized to be appropriated such sums as are necessary to carry out this subsection.

**(b) Award program**

The Secretary shall establish an annual award program to recognize those industry associations or individual industrial companies that have significantly improved their energy efficiency.

**(c) Report on industrial reporting and voluntary targets**

Not later than one year after October 24, 1992, the Secretary shall, in consultation with affected industries, evaluate and report to the Congress regarding the establishment of Federally mandated energy efficiency reporting requirements and voluntary energy efficiency improvement targets for energy intensive industries. Such report shall include an evaluation of the costs and benefits of such reporting requirements and voluntary energy efficiency improvement targets, and recommendations regarding the role of such activities in improving energy efficiency in energy intensive industries.

(Pub. L. 102-486, title I, §131, Oct. 24, 1992, 106 Stat. 2836.)

## CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Energy Policy and Conservation Act which comprises this chapter.

**§ 6349. Process-oriented industrial energy efficiency****(a) Definitions**

For the purposes of this section—

(1) the term “covered industry” means the food and food products industry, lumber and wood products industry, petroleum and coal products industry, and all other manufacturing industries specified in Standard Industrial Classification Codes 20 through 39 (or successor classification codes);

(2) the term “process-oriented industrial assessment” means—

(A) the identification of opportunities in the production process (from the introduction of materials to final packaging of the product for shipping) for—

- (i) improving energy efficiency;
- (ii) reducing environmental impact; and
- (iii) designing technological improvements to increase competitiveness and achieve cost-effective product quality enhancement;

(B) the identification of opportunities for improving the energy efficiency of lighting, heating, ventilation, air conditioning, and the associated building envelope; and

(C) the identification of cost-effective opportunities for using renewable energy technology in the production process and in the systems described in subparagraph (B); and

(3) the term “utility” means any person, State agency (including any municipality), or Federal agency, which sells electric or gas energy to retail customers.

**(b) Grant program****(1) Use of funds**

The Secretary shall, to the extent funds are made available for such purpose, make grants to States which, consistent with State law, shall be used for the following purposes:

(A) To promote, through appropriate institutions such as universities, nonprofit organizations, State and local government entities, technical centers, utilities, and trade organizations, the use of energy-efficient technologies in covered industries.

(B) To establish programs to train individuals (on an industry-by-industry basis) in conducting process-oriented industrial assessments and to encourage the use of such trained assessors.

(C) To assist utilities in developing, testing, and evaluating energy efficiency programs and technologies for industrial customers in covered industries.

**(2) Consultation**

States receiving grants under this subsection shall consult with utilities and representatives of affected industries, as appro-

priate, in determining the most effective use of such funds consistent with the requirements of paragraph (1).

**(3) Eligibility criteria**

Not later than 1 year after October 24, 1992, the Secretary shall establish eligibility criteria for grants made pursuant to this subsection. Such criteria shall require a State applying for a grant to demonstrate that such State—

(A) pursuant to section 2621(a) of title 16, has considered and made a determination regarding the implementation of the standards specified in paragraphs (7) and (8) of section 2621(d) of title 16 (with respect to integrated resources planning and investments in conservation and demand management); and

(B) by legislation or regulation—

(i) allows utilities to recover the costs prudently incurred in providing process-oriented industrial assessments; and

(ii) encourages utilities to provide to covered industries—

(I) process-oriented industrial assessments; and

(II) financial incentives for implementing energy efficiency improvements.

**(4) Allocation of funds**

Grants made pursuant to this subsection shall be allocated each fiscal year among States meeting the criteria specified in paragraph (3) who have submitted applications 60 days before the first day of such fiscal year. Such allocation shall be made in accordance with a formula to be prescribed by the Secretary based on each State's share of value added in industry (as determined by the Census of Manufacturers) as a percentage of the value added by all such States.

**(5) Renewal of grants**

A grant under this subsection may continue to be renewed after 2 consecutive fiscal years during which a State receives a grant under this subsection, subject to the availability of funds, if—

(A) the Secretary determines that the funds made available to the State during the previous 2 years were used in a manner required under paragraph (1); and

(B) such State demonstrates, in a manner prescribed by the Secretary, utility participation in programs established pursuant to this subsection.

**(6) Coordination with other Federal programs**

In carrying out the functions described in paragraph (1), States shall, to the extent practicable, coordinate such functions with activities and programs conducted by the Energy Analysis and Diagnostic Centers of the Department of Energy and the Manufacturing Technology Centers of the National Institute of Standards and Technology.

**(c) Other Federal assistance**

**(1) Assessment criteria**

Not later than 2 years after October 24, 1992, the Secretary shall, by contract with non-profit organizations with expertise in process-

oriented industrial energy efficiency technologies, establish and, as appropriate, update criteria for conducting process-oriented industrial assessments on an industry-by-industry basis. Such criteria shall be made available to State and local government, public utility commissions, utilities, representatives of affected process-oriented industries, and other interested parties.

**(2) Directory**

The Secretary shall establish a nationwide directory of organizations offering industrial energy efficiency assessments, technologies, and services consistent with the purposes of this section. Such directory shall be made available to State governments, public utility commissions, utilities, industry representatives, and other interested parties.

**(3) Award program**

The Secretary shall establish an annual award program to recognize utilities operating outstanding or innovative industrial energy efficiency technology assistance programs.

**(4) Meetings**

In order to further the purposes of this section, the Secretary shall convene annual meetings of parties interested in process-oriented industrial assessments, including representatives of State government, public utility commissions, utilities, and affected process-oriented industries.

**(d) Authorization of appropriations**

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(Pub. L. 102-486, title I, §132, Oct. 24, 1992, 106 Stat. 2837; Pub. L. 104-66, title I, §1052(a)(1), Dec. 21, 1995, 109 Stat. 717; Pub. L. 105-362, title IV, §401(d), Nov. 10, 1998, 112 Stat. 3282.)

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Energy Policy and Conservation Act which comprises this chapter.

AMENDMENTS

1998—Subsecs. (d), (e). Pub. L. 105-362 redesignated subsec. (e) as (d) and struck out heading and text of former subsec. (d) which related to reports to Congress.

1995—Subsec. (d). Pub. L. 104-66 substituted "Not later than October 24, 1995, and biennially thereafter" for "Not later than 2 years after October 24, 1992, and annually thereafter" in introductory provisions and added par. (6).

**§ 6350. Industrial insulation and audit guidelines**

**(a) Voluntary guidelines for energy efficiency auditing and insulating**

Not later than 18 months after October 24, 1992, the Secretary, after consultation with utilities, major industrial energy consumers, and representatives of the insulation industry, shall establish voluntary guidelines for—

(1) the conduct of energy efficiency audits of industrial facilities to identify cost-effective opportunities to increase energy efficiency; and

(2) the installation of insulation to achieve cost-effective increases in energy efficiency in industrial facilities.

**(b) Educational and technical assistance**

The Secretary shall conduct a program of educational and technical assistance to promote the use of the voluntary guidelines established under subsection (a) of this section.

(Pub. L. 102-486, title I, §133, Oct. 24, 1992, 106 Stat. 2840; Pub. L. 104-66, title I, §1052(a)(2), Dec. 21, 1995, 109 Stat. 717; Pub. L. 105-362, title IV, §401(e), Nov. 10, 1998, 112 Stat. 3282.)

## CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Energy Policy and Conservation Act which comprises this chapter.

## AMENDMENTS

1998—Subsec. (c). Pub. L. 105-362 struck out heading and text of subsec. (c). Text read as follows: “Not later than 2 years after October 24, 1995, and biennially thereafter, as part of the report required under section 6349(d) of this title, the Secretary shall report to the Congress on activities conducted pursuant to this section, including—

“(1) a review of the status of industrial energy auditing procedures; and

“(2) an evaluation of the effectiveness of the guidelines established under subsection (a) of this section and the responsiveness of the industrial sector to such guidelines.”

1995—Subsec. (c). Pub. L. 104-66 in introductory provisions substituted “1995” for “1992”, and inserted “as part of the report required under section 6349(d) of this title,” after “and biennially thereafter.”

PART D—OTHER FEDERAL ENERGY  
CONSERVATION MEASURES

## CODIFICATION

This part, originally designated part E and subsequently redesignated part F by Pub. L. 95-619, title IV, §441(a), Nov. 9, 1978, 92 Stat. 3267, was changed to part D for purposes of codification.

**§ 6361. Federal energy conservation programs****(a) Establishment and coordination of Federal agency actions**

(1) The President shall, to the extent of his authority under other law, establish or coordinate Federal agency actions to develop mandatory standards with respect to energy conservation and energy efficiency to govern the procurement policies and decisions of the Federal Government and all Federal agencies, and shall take such steps as are necessary to cause such standards to be implemented.

(2) The President shall develop and, to the extent of his authority under other law, implement a 10-year plan for energy conservation with respect to buildings owned or leased by an agency of the United States. Such plan shall include mandatory lighting efficiency standards, mandatory thermal efficiency standards and insulation requirements, restrictions on hours of operation, thermostat controls, and other conditions of operation, and plans for replacing or retrofitting to meet such standards.

**(b) Public education programs**

(1) The Secretary shall establish and carry out a responsible public education program—

(A) to encourage energy conservation and energy efficiency; or

(B) to promote van pooling and carpooling arrangements.

(2) For purposes of this subsection:

(A) The term “van” means any automobile which the Secretary determines is manufactured primarily for use in the transportation of not less than 8 individuals and not more than 15 individuals.

(B) The term “van pooling arrangement” means an arrangement for the transportation of employees between their residences or other designated locations and their place of employment on a nonprofit basis in which the operating costs of such arrangement are paid for by the employees utilizing such arrangement.

**(c) Omitted****(d) Applicability of plan to Executive agencies**

The plan developed by the President pursuant to subsection (a)(2) of this section shall be applicable to Executive agencies as defined in section 105 of title 5 and to the United States Postal Service.

**(e) Authorization of appropriations**

In addition to funds authorized in any other law, there is authorized to be appropriated to the President for fiscal year 1978 not to exceed \$25,000,000, and for fiscal year 1979 not to exceed \$50,000,000, to carry out the purposes of subsection (a)(2) of this section.

(Pub. L. 94-163, title III, §381, Dec. 22, 1975, 89 Stat. 939; Pub. L. 95-619, title V, §501, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3275, 3288; Pub. L. 100-615, §2(b), Nov. 5, 1988, 102 Stat. 3189.)

## CODIFICATION

Subsec. (c) of this section, which required the Secretary to include in the report required under section 8258(b) of this title the steps taken under subsecs. (a) and (b) of this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the 13th item on page 19 and the 3rd item on page 138 of House Document No. 103-7.

## AMENDMENTS

1988—Subsec. (c). Pub. L. 100-615 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “The President shall submit to the Congress an annual report concerning all steps taken under subsections (a) and (b) of this section.”

1978—Subsec. (b). Pub. L. 95-619, §691(b)(2), substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration, wherever appearing.

Subsecs. (d), (e). Pub. L. 95-619, §501, added subsecs. (d) and (e).

## TRANSFER OF FUNCTIONS

Functions vested in Secretary [formerly Administrator of Federal Energy Administration] under subsec. (b)(1)(B) of this section transferred to Secretary of Transportation by section 7159 of this title.

EX. ORD. NO. 12191. FEDERAL FACILITY RIDESHARING  
PROGRAM

Ex. Ord. No. 12191, Feb. 1, 1980, 45 F.R. 7997, provided: By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to increase ridesharing as a means to conserve petroleum, reduce congestion, improve air quality, and provide an economical way for Federal employees to commute to work, it is hereby ordered as follows:

## 1-1. RESPONSIBILITIES OF EXECUTIVE AGENCIES

1-101. Executive agencies shall promote the use of ridesharing (carpools, vanpools, privately leased buses, public transportation, and other multi-occupancy modes of travel) by personnel working at Federal facilities. Agency actions pursuant to this Order shall be consistent with Circular A-118 issued by the Office of Management and Budget.

1-102. Agencies shall establish an annual ridesharing goal tailored to each facility, and expressed as a percentage of fulltime personnel working at that facility who use ridesharing in the commute between home and work. Agencies that share facilities or that are within easy walking distance of one another should coordinate their efforts to develop and implement ridesharing opportunities.

1-103. Agencies shall designate, in accordance with OMB Circular A-118, an employee transportation coordinator. Agencies that share facilities may designate a single transportation coordinator. The coordinator shall assist employees in forming carpools or vanpools (employee-owned or leased) and facilitate employee participation in ridesharing matching programs. The coordinator shall publicize within the facility the availability of public transportation. The coordinator shall also communicate employee needs for new or improved transportation service to the appropriate local public transit authorities or other organizations furnishing multi-passenger modes of travel.

1-104. Agencies shall report to the Administrator of General Services, hereinafter referred to as the Administrator, the goals established, the means developed to achieve those goals, and the progress achieved. These reports shall be in such form and frequency as the Administrator may require.

## 1-2. RESPONSIBILITIES OF THE ADMINISTRATOR OF GENERAL SERVICES

1-201. The Administrator shall issue such regulations as are necessary to implement this Order.

1-202. The Administrator may exempt small, remotely located Federal facilities from the requirements of Sections 1-102, 1-103, and 1-104 on his own initiative or upon request of the agency. An exemption shall be granted in whole or in part when, in the judgment of the Administrator, the requirements of those Sections would not yield significant ridesharing benefits.

1-203. The Administrator shall, in consultation with the Secretary of Transportation, periodically provide agencies with guidelines, instructions, and other practical aids for establishing, implementing, and improving their ridesharing programs.

1-204. The Administrator shall assist in coordinating the ridesharing activities of the agencies with the efforts of the Department of Energy, under the Federal Energy Management Program and in the development of an emergency energy conservation plan for the Federal government.

1-205. The Administrator shall take into consideration the advice of the Environmental Protection Agency under the Clean Air Act, as amended [42 U.S.C. 7401 et seq.] in performing his responsibilities under this Order.

1-206. The Administrator shall, in consultation with the Secretary of Transportation, report annually to the President on the performance of the agencies in implementing the policies and actions contained in this Order. The report shall include (a) an assessment of each agency's performance, including the reasonableness of its goals and the adequacy of its effort, (b) a comparison of private sector and State and local government ridesharing efforts with those of the Federal government, and (c) recommendations for additional actions necessary to remove barriers or to provide additional incentives to encourage more ridesharing by personnel at Federal facilities.

JIMMY CARTER.

**§ 6362. Energy conservation policies and practices****(a) "Agency" defined**

In this section, "agency" means—

- (1) the Department of Transportation with respect to part A of subtitle VII of title 49, United States Code;
- (2) the Interstate Commerce Commission;
- (3) the Federal Maritime Commission; and
- (4) the Federal Power Commission.

**(b) Statement of probable impact of major regulatory action on energy efficiency**

Except as provided in subsection (c) of this section, each of the agencies specified in subsection (a) of this section shall, where practicable and consistent with the exercise of their authority under other law, include in any major regulatory action (as defined by rule by each such agency) taken by each such agency, a statement of the probable impact of such major regulatory action on energy efficiency and energy conservation.

**(c) Application of provisions to authority exercised to protect public health and safety**

Subsection (b) of this section shall not apply to any authority exercised under any provision of law designed to protect the public health or safety.

(Pub. L. 94-163, title III, §382, Dec. 22, 1975, 89 Stat. 939; Pub. L. 103-272, §4(h), July 5, 1994, 108 Stat. 1364.)

## AMENDMENTS

1994—Subsec. (a). Pub. L. 103-272, §4(h)(1), added subsec. (a) and struck out former subsec. (a) which related to reports to Congress by Federal agencies, feasibility of additional savings in energy consumption, and administration of laws permitting inefficient use of energy.

Subsec. (b). Pub. L. 103-272, §4(h)(2), substituted "subsection (a)" for "subsection (a)(1)".

## ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of Title 49.

**§ 6363. Federal actions with respect to recycled oil****(a) Purpose**

The purposes of this section are—

- (1) to encourage the recycling of used oil;
- (2) to promote the use of recycled oil;
- (3) to reduce consumption of new oil by promoting increased utilization of recycled oil; and
- (4) to reduce environmental hazards and wasteful practices associated with the disposal of used oil.

**(b) Definitions**

As used in this section:

(1) the term “used oil” means any oil which has been refined from crude oil, has been used, and as a result of such use has been contaminated by physical or chemical impurities.

(2) The term “recycled oil” means—

(A) used oil from which physical and chemical contaminants acquired through use have been removed by re-refining or other processing, or

(B) any blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives,

with respect to which the manufacturer has determined, pursuant to the rule prescribed under subsection (d)(1)(A)(i) of this section, is substantially equivalent to new oil for a particular end use.

(3) The term “new oil” means any oil which has been refined from crude oil and has not been used, and which may or may not contain additives. Such term does not include used oil or recycled oil.

(4) The term “manufacturer” means any person who re-refines or otherwise processes used oil to remove physical or chemical impurities acquired through use or who blends such re-refined or otherwise processed used oil with new oil or additives.

(5) The term “Commission” means the Federal Trade Commission.

**(c) Test procedures for determining substantial equivalency of recycled oil and new oil**

As soon as practicable after December 22, 1975, the National Institute of Standards and Technology shall develop test procedures for the determination of substantial equivalency of re-refined or otherwise processed used oil or blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives, with new oil for a particular end use. As soon as practicable after development of such test procedures, the National Institute of Standards and Technology shall report such procedures to the Commission.

**(d) Promulgation of rules prescribing test procedures and labeling standards**

(1)(A) Within 90 days after the date on which the Commission receives the report under subsection (c) of this section, the Commission shall, by rule, prescribe—

(i) test procedures for the determination of substantial equivalency of re-refined or otherwise processed used oil or blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives, with new oil distributed for a particular end use; and

(ii) labeling standards applicable to containers of recycled oil in order to carry out the purposes of this section.

(B) Such labeling standards shall permit any container of recycled oil to bear a label indicating any particular end use for which a determination of substantial equivalency has been made pursuant to subparagraph (A)(i).

(2) Not later than the expiration of such 90-day period, the Administrator of the Environmental Protection Agency shall, by rule, prescribe labeling standards applicable to containers of new oil, used oil, and recycled oil relating to the

proper disposal of such oils after use. Such standards shall be designed to reduce, to the maximum extent practicable, environmental hazards and wasteful practices associated with the disposal of such oils after use.

**(e) Labeling standards**

Beginning on the effective date of the standards prescribed pursuant to subsection (d)(1)(A) of this section—

(1) no rule or order of the Commission, other than the rules required to be prescribed pursuant to subsection (d)(1)(A) of this section, and no law, regulation, or order of any State or political subdivision thereof may apply, or remain applicable, to any container of recycled oil, if such law, regulation, rule, or order requires any container of recycled oil, which container bears a label in accordance with the terms of the rules prescribed under subsection (d)(1)(A) of this section, to bear any label with respect to the comparative characteristics of such recycled oil with new oil which is not identical to that permitted by the rule respecting labeling standards prescribed under subsection (d)(1)(A)(ii) of this section; and

(2) no rule or order of the Commission may require any container of recycled oil to also bear a label containing any term, phrase, or description which connotes less than substantial equivalency of such recycled oil with new oil.

**(f) Conformity of acts of Federal officials to Commission rules**

After the effective date of the rules required to be prescribed under subsection (d)(1)(A) of this section, all Federal officials shall act within their authority to carry out the purposes of this section, including—

(1) revising procurement policies to encourage procurement of recycled oil for military and nonmilitary Federal uses whenever such recycled oil is available at prices competitive with new oil procured for the same end use; and

(2) educating persons employed by Federal and State governments and private sectors of the economy of the merits of recycled oil, the need for its use in order to reduce the drain on the Nation’s oil reserves, and proper disposal of used oil to avoid waste of such oil and to minimize environmental hazards associated with improper disposal.

(Pub. L. 94-163, title III, § 383, Dec. 22, 1975, 89 Stat. 940; Pub. L. 100-418, title V, § 5115(c), Aug. 23, 1988, 102 Stat. 1433.)

AMENDMENTS

1988—Subsec. (c). Pub. L. 100-418 substituted “National Institute of Standards and Technology” for “National Bureau of Standards” in two places.

APPLICABILITY OF LABELING STANDARDS

Pub. L. 96-463, § 4(c), Oct. 15, 1980, 94 Stat. 2056, provided: “Before the effective date of the labeling standards required to be prescribed under section 383(d)(1)(A) of the Energy Policy and Conservation Act [subsec. (d)(1)(A) of this section], no requirement of any rule or order of the Federal Trade Commission may apply, or remain applicable, to any container of recycled oil (as defined in section 383(b) of such Act [subsec. (b) of this

section) if such requirement provides that the container must bear any label referring to the fact that it has been derived from previously used oil. Nothing in this subsection [this note] shall be construed to affect any labeling requirement applicable to recycled oil under any authority of law to the extent such requirement relates to fitness for intended use or any other performance characteristic of such oil or to any characteristic of such oil other than that referred to in the preceding sentence.”

PART E—ENERGY CONSERVATION PROGRAM FOR  
SCHOOLS AND HOSPITALS  
CODIFICATION

This part was, in the original, designated part G and has been changed to part E for purposes of codification.

**§ 6371. Definitions**

For the purposes of this part—

(1) The term “building” means any structure the construction of which was completed on or before May 1, 1989, which includes a heating or cooling system, or both.

(2) The term “energy conservation measure” means an installation or modification of an installation in a building which is primarily intended to maintain or reduce energy consumption and reduce energy costs or allow the use of an alternative energy source, including, but not limited to—

(A) insulation of the building structure and systems within the building;

(B) storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications;

(C) automatic energy control systems and load management systems;

(D) equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

(E) solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

(F) solar water heating systems;

(G) furnace or utility plant and distribution system modifications including—

(i) replacement burners, furnaces, boilers, or any combination thereof, which substantially increases the energy efficiency of the heating system,

(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system,

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights, and

(iv) utility plant system conversion measures including conversion of existing oil- and gas-fired boiler installations to alternative energy sources, including coal;

(H) caulking and weatherstripping;

(I) replacement or modification of lighting fixtures which replacement or modification increases the energy efficiency of the lighting system without increasing the overall illumination of a facility (unless such increase in illumination is necessary to conform to any applicable State or local building code or, if no

such code applies, the increase is considered appropriate by the Secretary);

(J) energy recovery systems;

(K) cogeneration systems which produce steam or forms of energy such as heat, as well as electricity for use primarily within a building or a complex of buildings owned by a school or hospital and which meet such fuel efficiency requirements as the Secretary may by rule prescribe;

(L) such other measures as the Secretary identifies by rule for purposes of this part; and

(M) such other measures as a grant applicant shows will save a substantial amount of energy and as are identified in an energy audit prescribed pursuant to section 6325(e)(2) of this title.

(3) The term “hospital” means a public or non-profit institution which is—

(A) a general hospital, tuberculosis hospital, or any other type of hospital, other than a hospital furnishing primarily domiciliary care; and

(B) duly authorized to provide hospital services under the laws of the State in which it is situated.

(4) The term “hospital facilities” means buildings housing a hospital and related facilities, including laboratories, outpatient departments, nurses’ home and training facilities and central service facilities operated in connection with a hospital, and also includes buildings housing education or training facilities for health professions personnel operated as an integral part of a hospital.

(5) The term “public or nonprofit institution” means an institution owned and operated by—

(A) a State, a political subdivision of a State or an agency or instrumentality of either, or

(B) an organization exempt from income tax under section 501(c)(3) of title 26.

(6) The term “school” means a public or non-profit institution which—

(A) provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis;

(B)(i) provides, and is legally authorized to provide a program of education beyond secondary education, on a day or residential basis;

(ii) admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate;

(iii) is accredited by a nationally recognized accrediting agency or association; and

(iv) provides an educational program for which it awards a bachelor’s degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the requirements of clauses (i), (ii), and (iii) and which provides such a program;

(C) provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (i), (ii), and (iii) of subparagraph (B); or

(D) is a local educational agency.

(7) The term “local education agency” means a public board of education or other public au-

thority or a nonprofit institution legally constituted within, or otherwise recognized by, a State for either administrative control or direction of, or to perform administrative services for, a group of schools within a State.

(8) The term "school facilities" means buildings housing classrooms, laboratories, dormitories, administrative facilities, athletic facilities, or related facilities operated in connection with a school.

(9) The term "State" means, in addition to the several States of the Union, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

(10) The term "State energy agency" means the State agency responsible for developing State energy conservation plans pursuant to section 6322 of this title, or, if no such agency exists, a State agency designated by the Governor of such State to prepare and submit a State plan under section 6371c of this title.

(11) The term "State school facilities agency" means an existing agency which is broadly representative of public institutions of higher education, nonprofit institutions of higher education, public elementary and secondary schools, nonprofit elementary and secondary schools, public vocational education institutions, nonprofit vocational education institutions, and the interests of handicapped persons, in a State or, if no such agency exists, an agency which is designated by the Governor of such State which conforms to the requirements of this paragraph.

(12) The term "State hospital facilities agency" means an existing agency which is broadly representative of the public hospitals and the nonprofit hospitals, or, if no such agency exists, an agency designated by the Governor of such State which conforms to the requirements of this paragraph.

(13) The term "energy audit" means a determination of the energy consumption characteristics of a building which—

(A) identifies the type, size, and rate of energy consumption of such building and the major energy using systems of such building;

(B) determines appropriate energy conservation maintenance and operating procedures; and

(C) indicates the need, if any, for the acquisition and installation of energy conservation measures.

(14) The term "preliminary energy audit" means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption and major energy-using systems of such building.

(15) The term "energy conservation project" means—

(A) an undertaking to acquire and to install one or more energy conservation measures in school or hospital facilities and

(B) technical assistance in connection with any such undertaking and technical assistance as described in paragraph (17)(A).

(16) The term "energy conservation project costs" includes only costs incurred in the design, acquisition, construction, and installation

of energy conservation measures and technical assistance costs.

(17) The term "technical assistance" means assistance, under rules promulgated by the Secretary, to States, schools, and hospitals—

(A) to conduct specialized studies identifying and specifying energy savings or energy cost savings that are likely to be realized as a result of (i) modification of maintenance and operating procedures in a building, or (ii) the acquisition and installation of one or more specified energy conservation measures in such building, or (iii) both, and

(B) the planning or administration of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in such building.

(18) The term "technical assistance costs" means costs incurred for the use of existing personnel or the temporary employment of other qualified personnel (or both such types of personnel) necessary for providing technical assistance.

(19) The term "energy conservation maintenance and operating procedure" means modification or modifications in the maintenance and operations of a building, and any installations therein, which are designed to reduce energy consumption in such building and which require no significant expenditure of funds.

(20) The term "Secretary" means the Secretary of Energy or his designee.

(21) The term "Governor" means the chief executive officer of a State or his designee.

(Pub. L. 94-163, title III, §391, as added Pub. L. 95-619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3239; amended Pub. L. 98-454, title VI, §601(e), Oct. 5, 1984, 98 Stat. 1736; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 101-440, §6(b), Oct. 18, 1990, 104 Stat. 1011; Pub. L. 105-388, §5(a)(9), Nov. 13, 1998, 112 Stat. 3478.)

#### AMENDMENTS

1998—Par. (2)(B). Pub. L. 105-388 substituted a semicolon for period at end.

1990—Par. (1). Pub. L. 101-440, §6(b)(1), substituted "May 1, 1989" for "April 20, 1977".

Par. (2). Pub. L. 101-440, §6(b)(2), (3), in introductory provision substituted "maintain or reduce energy consumption and reduce energy costs" for "reduce energy consumption" and in subpar. (C) inserted "and load management systems" after "systems".

Par. (8). Pub. L. 101-440, §6(b)(4), inserted "administrative facilities," after "dormitories,".

Par. (17)(A). Pub. L. 101-440, §6(b)(5), substituted "or energy cost savings" for "and related cost savings".

1986—Par. (5)(B). Pub. L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

1984—Par. (9). Pub. L. 98-454 which directed the amendment of subsec. (a) by inserting reference to the Northern Mariana Islands was executed to par. (9) of this section to reflect the probable intent of Congress, because this section does not contain a subsec. (a).

#### SEPARABILITY

Section 302(c) of title III of Pub. L. 95-619 provided that: "If any provision of this title [enacting sections 6371 to 6371j and section 6372 to 6372i of this title, amending sections 300k-2 and 300n-1 of this title, and enacting provisions set out as notes under this section

and section 6372 of this title] or the application thereof to any person or circumstances be held invalid, the provisions of other sections of this title and their application to other persons or circumstances shall not be affected thereby.”

CONGRESSIONAL STATEMENT OF FINDINGS AND PURPOSES

Section 301 of part 1 of title III of Pub. L. 95-619 provided:

“(a) FINDINGS.—The Congress finds that—

“(1) the Nation’s nonrenewable energy resources are being rapidly depleted;

“(2) schools and hospitals are major consumers of energy, and have been especially burdened by rising energy prices and fuel shortages;

“(3) substantial energy conservation can be achieved in schools and hospitals through the implementation of energy conservation maintenance and operating procedures and the installation of energy conservation measures; and

“(4) public and nonprofit schools and hospitals in many instances need financial assistance in order to make the necessary improvements to achieve energy conservation.

“(b) PURPOSE.—It is the purpose of this part [enacting sections 6371 to 6371i of this title, amending sections 300k-2 and 300n-1 of this title, and enacting provisions set out as notes under this section] to authorize grants to States and to public and nonprofit schools and hospitals to assist them in identifying and implementing energy conservation maintenance and operating procedures and in evaluating, acquiring, and installing energy conservation measures to reduce the energy use and anticipated energy costs of schools and hospitals.”

**§ 6371a. Guidelines**

**(a) Energy audits**

The Secretary shall, by rule, not later than 60 days after November 9, 1978—

(1) prescribe guidelines for the conduct of preliminary energy audits, including a description of the type, number, and distribution of preliminary energy audits of school and hospital facilities that will provide a reasonably accurate evaluation of the energy conservation needs of all such facilities in each State, and

(2) prescribe guidelines for the conduct of energy audits.

**(b) State plans for implementation of energy conservation projects in schools and hospitals**

The Secretary shall, by rule, not later than 90 days after November 9, 1978, prescribe guidelines for State plans for the implementation of energy conservation projects in schools and hospitals. The guidelines shall include—

(1) a description of the factors which the State energy agency may consider in determining which energy conservation projects will be given priority in making grants pursuant to this part, including such factors as cost, energy consumption, energy savings, and energy conservation goals,

(2) a description of the suggested criteria to be used in establishing a State program to identify persons qualified to implement energy conservation projects, and

(3) a description of the types of energy conservation measures deemed appropriate for each region of the Nation.

**(c) Revisions**

Guidelines prescribed under this section may be revised from time to time after notice and opportunity for comment.

**(d) Determination of severe hardship class for schools and hospitals**

The Secretary shall, by rule prescribe criteria for determining schools and hospitals which are in a class of severe hardship. Such criteria shall take into account climate, fuel costs, fuel availability, ability to provide the non-Federal share of the costs, and such other factors that he deems appropriate.

(Pub. L. 94-163, title III, §392, as added Pub. L. 95-619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3242.)

**§ 6371b. Preliminary energy audits and energy audits**

**(a) Application by Governor**

The Governor of any State may apply to the Secretary at such time as the Secretary may specify after promulgation of guidelines under section 6371a(a) of this title for grants to conduct preliminary energy audits and energy audits of school facilities and hospital facilities in such State under this part.

**(b) Grants for conduct of preliminary energy audits**

Upon application under subsection (a) of this section the Secretary may make grants to States for purposes of conducting preliminary energy audits of school facilities and hospital facilities under this part in accordance with the guidelines prescribed under section 6371a(a)(1) of this title. If a State does not conduct preliminary energy audits within two years after November 9, 1978, the Secretary may conduct such audits within such State.

**(c) Grants for conduct of energy audits**

Upon application under subsection (a) of this section the Secretary may make grants to States for purposes of conducting energy audits of school facilities and hospital facilities under this part in accordance with the guidelines prescribed under section 6371a(a)(2) of this title.

**(d) Audits conducted prior to grant of financial assistance**

If a State without the use of financial assistance under this section, conducts preliminary energy audits or energy audits which comply with the guidelines prescribed by the Secretary or which are approved by the Secretary the funds allocated for purposes of this section shall be added to the funds available for energy conservation projects for such State and shall be in addition to amounts otherwise available for such purposes.

**(e) Restriction on use of funds; grant covering total cost of energy audits**

(1) Except as provided in paragraph (2), amounts made available under this section (together with any other amounts made available from other Federal sources) may not be used to pay more than 50 percent of the costs of any preliminary energy audit or any energy audit.

(2) Upon the request of the Governor, the Secretary may make grants to a State for up to 100 percent of the costs of any preliminary energy audits and energy audits, subject to the requirements of section 6371g(a)(3) of this title.



(Pub. L. 94-163, title III, §393, as added Pub. L. 95-619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3242.)

### § 6371c. State plans

#### (a) Invitation to State energy agency to submit plan; contents

The Secretary shall invite the State energy agency of each State to submit, within 90 days after the effective date of the guidelines prescribed pursuant to section 6371a of this title, or such longer period as the Secretary may, for good cause, allow, a State plan under this section for such State. Such plan shall include—

(1) the results of preliminary energy audits conducted in accordance with the guidelines prescribed under section 6371a(a)(1) of this title, and an estimate of the energy savings that may result from the modification of maintenance and operating procedures and installation of energy conservation measures in the schools and hospitals in such State;

(2) a recommendation as to the types of energy conservation projects considered appropriate for schools and hospitals in such State, together with an estimate of the costs of carrying out such projects in each year for which funds are appropriated;

(3) a program for identifying persons qualified to carry out energy conservation projects;

(4) procedures to insure that funds will be allocated among eligible applicants for energy conservation projects within such State, including procedures—

(A) to insure that funds will be allocated on the basis of relative need taking into account such factors as cost, energy consumption and energy savings, and

(B) to insure that equitable consideration is given to all eligible public or nonprofit institutions regardless of size and type of ownership;

(5) a statement of the extent to which, and by which methods, such State will encourage utilization of solar space heating, cooling, and electric systems and solar water heating systems where appropriate;

(6) procedures to assure that all assistance under this part in such State will be expended in compliance with the requirements of an approved State plan for such State, and in compliance with the requirements of this part;

(7) procedures to insure implementation of energy conserving maintenance and operating procedures in those facilities for which projects are proposed; and

(8) policies and procedures designed to assure that financial assistance provided under this part in such State will be used to supplement, and not to supplant, State, local, or other funds.

#### (b) Approval of plans

The Secretary shall review and approve or disapprove each State plan not later than 60 days after receipt by the Secretary. If such plan meets the requirements of subsection (a) of this section, the Secretary shall approve the plan. If a State plan submitted within the 90-day period specified in subsection (a) of this section has not

been disapproved within the 60-day period following its receipt by the Secretary, such plan shall be treated as approved by the Secretary. A State energy agency may submit a new or amended plan at any time after the submission of the original plan if the agency obtains the consent of the Secretary.

#### (c) Development and implementation of approved plans; submission of proposed State plan

(1) If a State plan has not been approved under this section within 2 years and 90 days after November 9, 1978, or within 90 days after the completion of the preliminary audits under section 6371b(a) of this title, whichever is later, the Secretary may take such action as necessary to develop and implement such a State plan and to carry out the functions which would otherwise be carried out under this part by the State energy agency, State school facilities agency, and State hospital facilities agency, in order that the energy conservation program for schools and hospitals may be implemented in such State.

(2) Notwithstanding any other provision contained in this section, a State may, at any time, submit a proposed State plan for such State under this section. The Secretary shall approve or disapprove such plan not later than 60 days after receipt by the Secretary. If such plan meets the requirements of subsection (a) of this section and is not inconsistent with any plan developed and implemented by the Secretary under paragraph (1), the Secretary shall approve the plan and withdraw any such plan developed and implemented by the Secretary.

(Pub. L. 94-163, title III, §394, as added Pub. L. 95-619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3243; amended Pub. L. 105-388, §5(a)(10), Nov. 13, 1998, 112 Stat. 3478.)

#### AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105-388, §5(a)(10)(A), substituted semicolon for comma at end.

Subsec. (a)(2). Pub. L. 105-388, §5(a)(10)(B), substituted semicolon for period at end.

Subsec. (a)(3), (5). Pub. L. 105-388, §5(a)(10)(A), substituted semicolon for comma at end.

Subsec. (a)(6). Pub. L. 105-388, §5(a)(10)(C), substituted semicolon for colon at end.

#### § 6371d. Applications for financial assistance

##### (a) Limitation on number of applications by States, schools, and hospitals; submittal to State energy agency

Applications of States, schools, and hospitals for financial assistance under this part for energy conservation projects shall be made not more than once for any fiscal year. Schools and hospitals applying for such financial assistance shall submit their applications to the State energy agency and the State energy agency shall make a single submittal to the Secretary, containing all applications which comply with the State plan.

##### (b) Required information

Applications for financial assistance under this part for energy conservation projects shall contain, or shall be accompanied by, such information as the Secretary may reasonably re-

quire, including the results of energy audits which comply with guidelines under this part. The annual submittal to the Secretary by the State energy agency under subsection (a) of this section shall include a listing and description of energy conservation projects proposed to be funded within the State during the fiscal year for which such application is made, and such information concerning expected expenditures as the Secretary may, by rule, require.

**(c) Conditions for financial assistance; applications consistent with related State programs and health plans**

(1) The Secretary may not provide financial assistance to States, schools, or hospitals for energy conservation projects unless the application for a grant for such project is submitted through, or approved by the appropriate State hospital facilities agency or State school facilities agency, respectively, and determined by the State energy agency to comply with the State plan.

(2) Applications of States, schools, and hospitals and State plans pursuant to this part shall be consistent with—

(A) related State programs for educational facilities in such State, and

(B) State health plans under section 300m-3(c)(2)<sup>1</sup> and 300o-2<sup>1</sup> of this title, and shall be coordinated through the review mechanisms required under section 300m-2<sup>1</sup> of this title and section 1320a-1 of this title.

**(d) Compliance required for approval; reasons for disapproval; resubmittal; amendment**

The Secretary shall approve such applications submitted by a State energy agency as he determines to be in compliance with this section and with the requirements of the applicable State plan approved under section 6371c of this title. The Secretary shall state the reasons for his disapproval in the case of any application which he disapproves. Any application not approved by the Secretary may be resubmitted by the applicant at any time in the same manner as the original application and the Secretary shall approve such resubmitted application as he determines to be in compliance with this section and the requirements of the State plan. Amendments of an application shall, except as the Secretary may otherwise provide, be subject to approval in the same manner as the original application. All or any portion of an application under this section may be disapproved to the extent that funds are not available under this part to carry out such application or portion.

**(e) Suspension of further assistance for failure to comply**

Whenever the Secretary, after reasonable notice and opportunity for hearing to any State, school, or hospital receiving assistance under this part, finds that there has been a failure to comply substantially with the provisions set forth in the application approved under this section, the Secretary shall notify the State, school, or hospital that further assistance will not be made available to such State, school or hospital under this part until he is satisfied that

there is no longer any such failure to comply. Until he is so satisfied no further assistance shall be made to such State, school, or hospital under this part.

(Pub. L. 94-163, title III, §395, as added Pub. L. 95-619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3244.)

REFERENCES IN TEXT

Sections 300m-2 and 300m-3 of this title, referred to in subsec. (c)(2)(B), were repealed effective Jan. 1, 1987, by Pub. L. 99-660, title VII, §701(a), Nov. 14, 1986, 100 Stat. 3799.

Section 300o-2 of this title, referred to in subsec. (c)(2)(B), was repealed by Pub. L. 96-79, title II, §202(a), Oct. 4, 1979, 93 Stat. 632.

**§ 6371e. Grants for project costs and technical assistance**

**(a) Authorization of Secretary; project costs**

The Secretary may make grants to schools and hospitals for carrying out energy conservation projects the applications for which have been approved under section 6371d of this title.

**(b) Restrictions on use of funds**

(1) Except as provided in paragraph (2), amounts made available for purposes of this section (together with any amounts available for such purposes from other Federal sources) may not be used to pay more than 50 percent of the costs of any energy conservation project. The non-Federal share of the costs of any such energy conservation project may be provided by using programs of innovative financing for energy conservation projects (including, but not limited to, loan programs and performance contracting), even if, pursuant to such financing, clear title to the equipment does not pass to the school or hospital until after the grant is completed.

(2) Amounts made available for purposes of this section (together with any amounts available for such purposes from other Federal sources) may be used to pay not to exceed 90 percent of the costs of an energy conservation project if the Secretary determines that a project meets the hardship criteria of section 6371a(d) of this title. Grants made under this paragraph shall be from the funds provided under section 6371g(a)(2) of this title.

**(c) Allocation requirements**

Grants made under this section in any State in any year shall be made in accordance with the requirements contained in section 6371g of this title.

**(d) Technical assistance costs**

(1) The Secretary may make grants to States for paying technical assistance costs. Schools in any State shall not be allocated less than 30 percent of the funds for energy conservation projects within such State and hospitals in any State shall not be allocated less than 30 percent of such funds.

(2) A State may utilize up to 100 percent of the funds provided by the Secretary under this part for any fiscal year for program and technical assistance and up to 50 percent of such funds for marketing and other costs associated with leveraging of non-Federal funds for carrying out

<sup>1</sup> See References in Text note below.

this part and may administer a continuous and consecutive application and award procedure for providing program and technical assistance under this part in accordance with regulations that the Secretary shall establish, if the State—

(A) has adopted a State plan in accordance with section 6371c of this title, the administration of which is in accordance with applicable regulations; and

(B) certifies to the Secretary that not more than 15 percent of the aggregate amount of Federal and non-Federal funds used by the State to provide program and technical assistance, implement energy conservation measures, and otherwise carry out a program pursuant to this part for the fiscal year concerned will be expended for program and technical assistance and for marketing and other costs associated with leveraging of non-Federal funds for such program.

(Pub. L. 94-163, title III, §396, as added Pub. L. 95-619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3245; amended Pub. L. 101-440, §6(a), (c), (d), Oct. 18, 1990, 104 Stat. 1011.)

#### AMENDMENTS

1990—Subsec. (b)(1). Pub. L. 101-440, §6(a), inserted at end “The non-Federal share of the costs of any such energy conservation project may be provided by using programs of innovative financing for energy conservation projects (including, but not limited to, loan programs and performance contracting), even if, pursuant to such financing, clear title to the equipment does not pass to the school or hospital until after the grant is completed.”

Subsec. (d). Pub. L. 101-440, §6(d), designated existing provisions as par. (1) and added par. (2).

Subsec. (e). Pub. L. 101-440, §6(c), struck out subsec. (e) which prohibited funds for buildings used principally for administration.

#### § 6371f. Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1999 through 2003 such sums as may be necessary.

(Pub. L. 94-163, title III, §397, as added Pub. L. 95-619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3246; amended Pub. L. 101-440, §8(b), Oct. 18, 1990, 104 Stat. 1015; Pub. L. 105-388, §2(b), Nov. 13, 1998, 112 Stat. 3477.)

#### AMENDMENTS

1998—Pub. L. 105-388 amended section generally, substituting provisions authorizing appropriations for fiscal years 1999 through 2003 for provisions authorizing appropriations for fiscal years 1991 through 1993.

1990—Pub. L. 101-440 amended section generally, substituting provisions authorizing appropriations for fiscal years 1991 through 1993 for provisions authorizing appropriations for fiscal years ending Sept. 30, 1978, Sept. 30, 1979, and Sept. 30, 1980.

#### § 6371g. Allocation of grants

##### (a) Section 6371e grants

(1) Except as otherwise provided in subsection (b) of this section, the Secretary shall allocate 90 percent of the amounts made available under section 6371f(b)<sup>1</sup> of this title in any year for purposes of making energy conservation project

grants pursuant to section 6371e of this title as follows:

(A) Eighty percent of amounts made available under section 6371f(b)<sup>1</sup> of this title shall be allocated among the States in accordance with a formula to be prescribed, by rule, by the Secretary, taking into account population and climate of each State, and such other factors as the Secretary may deem appropriate.

(B) Ten percent of amounts made available under section 6371f(b)<sup>1</sup> of this title shall be allocated among the States in such manner as the Secretary determines by rule after taking into account the availability and cost of fuel or other energy used in, and the amount of fuel or other energy consumed by, schools and hospitals in the States, and such other factors as he deems appropriate.

(2) The Secretary shall allocate 10 percent of the amounts made available under section 6371f(b)<sup>1</sup> of this title in any year for purposes of making grants as provided under section 6371e(b)(2) of this title in excess of the 50 percent limitation contained in section 6371e(b)(1) of this title.

(3) In the case of any State which received for any fiscal year an amount which exceeded 50 percent of the cost of any energy audit as provided in section 6371b(e)(2) of this title, the aggregate amount allocated to such State under this subsection for such fiscal year (determined after applying paragraphs (1) and (2)) shall be reduced by an amount equal to such excess. The amount of such reduction shall be reallocated to the States for such fiscal year as provided in this subsection except that for purposes of such reallocation, the State which received such excess shall not be eligible for any portion of such reallocation.

##### (b) Restrictions on allocations to States

The total amount allocated to any State under subsection (a) of this section in any year shall not exceed 10 percent of the total amount allocated to all the States in such year under such subsection (a) of this section. Except for the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands, not less than 0.5 percent of such total allocation to all States for that year shall be allocated in such year for the total of grants to States and to schools and hospitals in each State which has an approved State plan under this part.

##### (c) Prescription of rules governing allocations among States with regard to energy audits

Not later than 60 days after November 9, 1978, the Secretary shall prescribe rules governing the allocation among the States of funds for grants for preliminary energy audits and energy audits. Such rules shall take into account the population and climate of such States and such other factors as he may deem appropriate.

##### (d) Prescription of rules limiting allocations to States for administrative expenses

The Secretary shall prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State.

<sup>1</sup> See References in Text note below.

**(e) Reallocations**

Funds allocated for projects in any States for a fiscal year under this section but not obligated in such fiscal year shall be available for reallocation under subsection (a) of this section in the subsequent fiscal year.

(Pub. L. 94-163, title III, §398, as added Pub. L. 95-619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3246; amended Pub. L. 98-454, title VI, §601(e), Oct. 5, 1984, 98 Stat. 1736.)

## REFERENCES IN TEXT

Section 6371f of this title, referred to in subsec. (a)(1), (2), was amended by Pub. L. 101-440, §8(b), Oct. 18, 1990, 104 Stat. 1015, and, as so amended, no longer contains a subsec. (b).

## AMENDMENTS

1984—Subsec. (b). Pub. L. 98-454 inserted reference to Northern Mariana Islands.

**§ 6371h. Administration; detailed description in annual report**

(a) The Secretary may prescribe such rules as may be necessary in order to carry out the provisions of this part.

(b) The Secretary shall include in his annual report a detailed description of the actions taken under this part in the preceding fiscal year and the actions planned to be taken in the subsequent fiscal year. Such description shall show the allocations made (including the allocations made to each State) and include information on the types of conservation measures implemented, with funds allocated, and an estimate of the energy savings achieved.

(Pub. L. 94-163, title III, §399, as added Pub. L. 95-619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3247; amended Pub. L. 96-470, title II, §203(b), Oct. 19, 1980, 94 Stat. 2242.)

## AMENDMENTS

1980—Subsec. (b). Pub. L. 96-470 substituted “include in his annual report a detailed description” for “, within one year after November 9, 1978, and annually thereafter while funds are available under this part, submit to Congress a detailed report” and “Such description” for “Such report”.

**§ 6371h-1. Energy sustainability and efficiency grants and loans for institutions****(a) Definitions**

In this section:

**(1) Combined heat and power**

The term “combined heat and power” means the generation of electric energy and heat in a single, integrated system, with an overall thermal efficiency of 60 percent or greater on a higher-heating-value basis.

**(2) District energy systems**

The term “district energy systems” means systems providing thermal energy from a renewable energy source, thermal energy source, or highly efficient technology to more than 1 building or fixed energy-consuming use from 1 or more thermal-energy production facilities through pipes or other means to provide space heating, space conditioning, hot water, steam, compression, process energy, or other end uses for that energy.

**(3) Energy sustainability**

The term “energy sustainability” includes using a renewable energy source, thermal energy source, or a highly efficient technology for transportation, electricity generation, heating, cooling, lighting, or other energy services in fixed installations.

**(4) Institution of higher education**

The term “institution of higher education” has the meaning given the term in section 15801 of this title.

**(5) Institutional entity**

The term “institutional entity” means an institution of higher education, a public school district, a local government, a municipal utility, or a designee of 1 of those entities.

**(6) Renewable energy source**

The term “renewable energy source” has the meaning given the term in section 918c of title 7.

**(7) Sustainable energy infrastructure**

The term “sustainable energy infrastructure” means—

(A) facilities for production of energy from renewable energy sources, thermal energy sources, or highly efficient technologies, including combined heat and power or other waste heat use; and

(B) district energy systems.

**(8) Thermal energy source**

The term “thermal energy source” means—

(A) a natural source of cooling or heating from lake or ocean water; and

(B) recovery of useful energy that would otherwise be wasted from ongoing energy uses.

**(b) Technical assistance grants****(1) In general**

Subject to the availability of appropriated funds, the Secretary shall implement a program of information dissemination and technical assistance to institutional entities to assist the institutional entities in identifying, evaluating, designing, and implementing sustainable energy infrastructure projects in energy sustainability.

**(2) Assistance**

The Secretary shall support institutional entities in—

(A) identification of opportunities for sustainable energy infrastructure;

(B) understanding the technical and economic characteristics of sustainable energy infrastructure;

(C) utility interconnection and negotiation of power and fuel contracts;

(D) understanding financing alternatives;

(E) permitting and siting issues;

(F) obtaining case studies of similar and successful sustainable energy infrastructure systems; and

(G) reviewing and obtaining computer software for assessment, design, and operation and maintenance of sustainable energy infrastructure systems.

**(3) Eligible costs for technical assistance grants**

On receipt of an application of an institutional entity, the Secretary may make grants to the institutional entity to fund a portion of the cost of—

(A) feasibility studies to assess the potential for implementation or improvement of sustainable energy infrastructure;

(B) analysis and implementation of strategies to overcome barriers to project implementation, including financial, contracting, siting, and permitting barriers; and

(C) detailed engineering of sustainable energy infrastructure.

**(c) Grants for energy efficiency improvement and energy sustainability****(1) Grants****(A) In general**

The Secretary shall award grants to institutional entities to carry out projects to improve energy efficiency on the grounds and facilities of the institutional entity.

**(B) Requirement**

To the extent that applications have been submitted, grants under subparagraph (A) shall include not less than 1 grant each year to an institution of higher education in each State.

**(C) Minimum funding**

Not less than 50 percent of the total funding for all grants under this subsection shall be awarded in grants to institutions of higher education.

**(2) Criteria**

Evaluation of projects for grant funding shall be based on criteria established by the Secretary, including criteria relating to—

(A) improvement in energy efficiency;

(B) reduction in greenhouse gas emissions and other air emissions, including criteria air pollutants and ozone-depleting refrigerants;

(C) increased use of renewable energy sources or thermal energy sources;

(D) reduction in consumption of fossil fuels;

(E) active student participation; and

(F) need for funding assistance.

**(3) Condition**

As a condition of receiving a grant under this subsection, an institutional entity shall agree—

(A) to implement a public awareness campaign concerning the project in the community in which the institutional entity is located; and

(B) to submit to the Secretary, and make available to the public, reports on any efficiency improvements, energy cost savings, and environmental benefits achieved as part of a project carried out under paragraph (1), including quantification of the results relative to the criteria described under paragraph (2).

**(d) Grants for innovation in energy sustainability****(1) Grants****(A) In general**

The Secretary shall award grants to institutional entities to engage in innovative energy sustainability projects.

**(B) Requirement**

To the extent that applications have been submitted, grants under subparagraph (A) shall include not less than 2 grants each year to institutions of higher education in each State.

**(C) Minimum funding**

Not less than 50 percent of the total funding for all grants under this subsection shall be awarded in grants to institutions of higher education.

**(2) Innovation projects**

An innovation project carried out with a grant under this subsection shall—

(A) involve—

(i) an innovative technology that is not yet commercially available; or

(ii) available technology in an innovative application that maximizes energy efficiency and sustainability;

(B) have the greatest potential for testing or demonstrating new technologies or processes; and

(C) to the extent undertaken by an institution of higher education, ensure active student participation in the project, including the planning, implementation, evaluation, and other phases of projects.

**(3) Condition**

As a condition of receiving a grant under this subsection, an institutional entity shall agree to submit to the Secretary, and make available to the public, reports that describe the results of the projects carried out using grant funds.

**(e) Allocation to institutions of higher education with small endowments****(1) In general**

Of the total amount of grants provided to institutions of higher education for a fiscal year under this section, the Secretary shall provide not less than 50 percent of the amount to institutions of higher education that have an endowment of not more than \$100,000,000.

**(2) Requirement**

To the extent that applications have been submitted, at least 50 percent of the amount described in paragraph (1) shall be provided to institutions of higher education that have an endowment of not more than \$50,000,000.

**(f) Grant amounts****(1) In general**

If the Secretary determines that cost sharing is appropriate, the amounts of grants provided under this section shall be limited as provided in this subsection.

**(2) Technical assistance grants**

In the case of grants for technical assistance under subsection (b), grant funds shall be available for not more than—

(A) an amount equal to the lesser of—

- (i) \$50,000; or
- (ii) 75 percent of the cost of feasibility studies to assess the potential for implementation or improvement of sustainable energy infrastructure;

(B) an amount equal to the lesser of—

- (i) \$90,000; or
- (ii) 60 percent of the cost of guidance on overcoming barriers to project implementation, including financial, contracting, siting, and permitting barriers; and

(C) an amount equal to the lesser of—

- (i) \$250,000; or
- (ii) 40 percent of the cost of detailed engineering and design of sustainable energy infrastructure.

**(3) Grants for efficiency improvement and energy sustainability**

In the case of grants for efficiency improvement and energy sustainability under subsection (c), grant funds shall be available for not more than an amount equal to the lesser of—

- (A) \$1,000,000; or
- (B) 60 percent of the total cost.

**(4) Grants for innovation in energy sustainability**

In the case of grants for innovation in energy sustainability under subsection (d), grant funds shall be available for not more than an amount equal to the lesser of—

- (A) \$500,000; or
- (B) 75 percent of the total cost.

**(g) Loans for energy efficiency improvement and energy sustainability**

**(1) In general**

Subject to the availability of appropriated funds, the Secretary shall provide loans to institutional entities for the purpose of implementing energy efficiency improvements and sustainable energy infrastructure.

**(2) Terms and conditions**

**(A) In general**

Except as otherwise provided in this paragraph, loans made under this subsection shall be on such terms and conditions as the Secretary may prescribe.

**(B) Maturity**

The final maturity of loans made within a period shall be the lesser of, as determined by the Secretary—

- (i) 20 years; or
- (ii) 90 percent of the useful life of the principal physical asset to be financed by the loan.

**(C) Default**

No loan made under this subsection may be subordinated to another debt contracted by the institutional entity or to any other claims against the institutional entity in the case of default.

**(D) Benchmark interest rate**

**(i) In general**

Loans under this subsection shall be at an interest rate that is set by reference to

a benchmark interest rate (yield) on marketable Treasury securities with a similar maturity to the direct loans being made.

**(ii) Minimum**

The minimum interest rate of loans under this subsection shall be at the interest rate of the benchmark financial instrument.

**(iii) New loans**

The minimum interest rate of new loans shall be adjusted each quarter to take account of changes in the interest rate of the benchmark financial instrument.

**(E) Credit risk**

The Secretary shall—

- (i) prescribe explicit standards for use in periodically assessing the credit risk of making direct loans under this subsection; and
- (ii) find that there is a reasonable assurance of repayment before making a loan.

**(F) Advance budget authority required**

New direct loans may not be obligated under this subsection except to the extent that appropriations of budget authority to cover the costs of the new direct loans are made in advance, as required by section 661c of title 2.

**(3) Criteria**

Evaluation of projects for potential loan funding shall be based on criteria established by the Secretary, including criteria relating to—

- (A) improvement in energy efficiency;
- (B) reduction in greenhouse gas emissions and other air emissions, including criteria air pollutants and ozone-depleting refrigerants;
- (C) increased use of renewable electric energy sources or renewable thermal energy sources;
- (D) reduction in consumption of fossil fuels; and
- (E) need for funding assistance, including consideration of the size of endowment or other financial resources available to the institutional entity.

**(4) Labor standards**

**(A) In general**

All laborers and mechanics employed by contractors or subcontractors in the performance of construction, repair, or alteration work funded in whole or in part under this section shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with sections 3141 through 3144, 3146, and 3147 of title 40. The Secretary shall not approve any such funding without first obtaining adequate assurance that required labor standards will be maintained upon the construction work.

**(B) Authority and functions**

The Secretary of Labor shall have, with respect to the labor standards specified in

paragraph (1), the authority and functions set forth in Reorganization Plan Number 14 of 1950 (15 Fed. Reg. 3176; 64 Stat. 1267) and section 3145 of title 40.

**(h) Program procedures**

Not later than 180 days after December 19, 2007, the Secretary shall establish procedures for the solicitation and evaluation of potential projects for grant and loan funding and administration of the grant and loan programs.

**(i) Authorization**

**(1) Grants**

There is authorized to be appropriated for the cost of grants authorized in subsections (b), (c), and (d) \$250,000,000 for each of fiscal years 2009 through 2013, of which not more than 5 percent may be used for administrative expenses.

**(2) Loans**

There is authorized to be appropriated for the initial cost of direct loans authorized in subsection (g) \$500,000,000 for each of fiscal years 2009 through 2013, of which not more than 5 percent may be used for administrative expenses.

(Pub. L. 94-163, title III, §399A, as added Pub. L. 110-140, title IV, §471, Dec. 19, 2007, 121 Stat. 1642.)

REFERENCES IN TEXT

Reorganization Plan Number 14 of 1950, referred to in subsec. (g)(4)(B), is set out in the Appendix to Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as a note under section 1824 of Title 2, The Congress.

**§ 6371i. Records**

Each recipient of assistance under this part shall keep such records, provide such reports, and furnish such access to books and records as the Secretary may by rule prescribe.

(Pub. L. 94-163, title III, §400, as added Pub. L. 95-619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3247; amended Pub. L. 105-388, §5(a)(11), Nov. 13, 1998, 112 Stat. 3479.)

AMENDMENTS

1998—Pub. L. 105-388 struck out “(a)” before “Each recipient”.

**§ 6371j. Application of sections 3141-3144, 3146, and 3147 of title 40**

No grant for a project (other than so much of a grant as is used for a preliminary energy audit, energy audit, or technical assistance or a grant the total project cost of which is \$5,000 or less, excluding costs for a preliminary energy audit, energy audit, or technical assistance) shall be made under this part or part 1 unless the Secretary finds that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction utilizing such grants will be paid at rates not less than those prevailing on similar construction in the locality, as determined by

the Secretary of Labor in accordance with sections 3141-3144, 3146, and 3147 of title 40; and the Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 3145 of title 40.

(Pub. L. 95-619, title III, §312, Nov. 9, 1978, 92 Stat. 3254.)

REFERENCES IN TEXT

This part, referred to in text, means part 2 (§§310-312) of title III of Pub. L. 95-619, Nov. 9, 1978, 92 Stat. 3248, as amended, which enacted sections 6371j and 6372 to 6372i of this title and enacted provisions set out as a note under section 6372 of this title. For complete classification of this part to the Code, see Tables.

Part 1, referred to in text, means part 1 (§§301-304) of title III of Pub. L. 95-619, Nov. 9, 1978, 92 Stat. 3238, as amended, which enacted sections 6371 to 6371i of this title, amended sections 300k-2 and 300n-1 of this title, and enacted provisions set out as notes under sections 6371 of this title. For complete classification of this part to the Code, see Tables.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In text, “sections 3141-3144, 3146, and 3147 of title 40” substituted for “the Act of March 31, 1931 (40 U.S.C. 276a-276a-5, known as the Davis-Bacon Act)” and “section 3145 of title 40” substituted for “section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)” on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

Section was enacted as a part of the National Energy Conservation Policy Act, and not as a part of the Energy Policy and Conservation Act which comprises this chapter, and consequently is not a part of part E of this subchapter.

**PART F—ENERGY CONSERVATION PROGRAM FOR BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS**

CODIFICATION

This part was, in the original, designated part H and has been changed to part F for purposes of codification.

**§ 6372. Definitions**

For purposes of this part—

(1) The terms “hospital”, “State”, “school”, “Governor”, “State energy agency”, “energy conservation measure”, “energy conservation maintenance and operating procedure”, “preliminary energy audit”, “technical assistance costs”, “energy audit” and “Secretary” have the meanings provided in section 6371 of this title.

(2) The term “unit of local government” means the government of a county, municipality, or township, which is a unit of general purpose government below the State (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes) and the District of Columbia. Such term also means the recognized governing body of an Indian tribe (as defined in section 6862 of this title) which governing body performs substantial governmental functions.

(3) The term “building” has the meaning provided in section 6371 of this title except

that for purposes of this part such term includes only buildings which are owned and primarily occupied by offices or agencies of a unit of local government or by a public care institution and does not include any building intended for seasonal use or any building utilized primarily by a school or hospital.

(4) The term “public care institution” means a public or nonprofit institution which owns—

- (A) a facility for long term care, a rehabilitation facility, or a public health center, as described in section 300s-3 of this title, or
- (B) a residential child care center.

(5) The term “public or nonprofit institution” means an institution owned and operated by—

- (A) a State, a political subdivision of a State or an agency or instrumentality of either, or
- (B) an organization exempt from income tax under section 501(c)(3) or 501(c)(4) of title 26.

(6) The term “technical assistance program costs” means the costs of carrying out a technical assistance program.

(7) The term “technical assistance” means assistance under rules, promulgated by the Secretary, to States, units of local government and public care institutions—

- (A) to conduct specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of (i) modification or maintenance and operating procedures in a building, (ii) the acquisition and installation of one or more specified energy conservation measures in such building or (iii) both, or
- (B) the planning or administration of such specialized studies.

(Pub. L. 94-163, title III, §400A, as added Pub. L. 95-619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3248; amended Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

#### AMENDMENTS

1986—Par. (5)(B). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

#### SEPARABILITY

For separability of provisions of title III of Pub. L. 95-619, see section 302(c) of Pub. L. 95-619, set out as a note under section 6371 of this title.

#### CONGRESSIONAL STATEMENT OF FINDINGS AND PURPOSES

Section 310 of part 2 of title III of Pub. L. 95-619 provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) the Nation’s nonrenewable energy resources are being rapidly depleted;

“(2) buildings owned by units of local government and public care institutions are major consumers of energy, and such units and institutions have been especially burdened by rising energy prices and fuel shortages;

“(3) substantial energy conservation can be achieved in buildings owned by units of local government and public care institutions through the implementation of energy conservation maintenance and operating procedures; and

“(4) units of local government and public care institutions in many instances need financial assistance in order to conduct energy audits and to identify energy conservation maintenance and operating procedures and to evaluate the potential benefits of acquiring and installing energy conservation measures.

“(b) PURPOSE.—It is the purpose of this part [enacting sections 6371j and 6372 to 6372i of this title] to authorize grants to States and units of local government and public care institutions to assist them in conducting preliminary energy audits and energy audits in identifying and implementing energy conservation maintenance and operating procedures and in evaluating energy conservation measures to reduce the energy use and anticipated energy costs of buildings owned by units of local government and public care institutions.”

#### APPLICATION OF DAVIS-BACON ACT

For application of the Davis-Bacon Act to grants made by the Secretary under this part, see section 6371j of this title.

#### § 6372a. Guidelines

##### (a) Energy audits

The Secretary shall, by rule, not later than sixty days after November 9, 1978—

- (1) prescribe guidelines for the conduct of the preliminary energy audits for buildings owned by units of local government and public care institutions, including a description of the type, number and distribution of preliminary energy audits of such buildings that will provide a reasonably accurate evaluation of the energy conservation needs of all such buildings in each State, and
- (2) prescribe guidelines for the conduct of energy audits.

##### (b) Implementation of technical assistance programs

The Secretary shall, by rule, not later than 90 days after November 9, 1978, prescribe guidelines for State plans for the implementation of technical assistance programs for buildings owned by units of local government and public care institutions. The guidelines shall include—

- (1) a description of the factors to be considered in determining which technical assistance programs will be given priority in making grants pursuant to this part, including such factors as cost, energy consumption, energy savings, and energy conservation goals;
- (2) a description of the suggested criteria to be used in establishing a State program to identify persons qualified to undertake technical assistance work; and
- (3) a description of the types of energy conservation measures deemed appropriate for each region of the Nation.

(c) Revisions

Guidelines prescribed under this part may be revised from time to time after notice and opportunity for comment.

(Pub. L. 94-163, title III, §400B, as added Pub. L. 95-619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3249.)

#### § 6372b. Preliminary energy audits and energy audits

(a) Application by Governor

The Governor of any State may apply to the Secretary at such time as the Secretary may

(Pub. L. 94-163, title III, §400B, as added Pub. L. 95-619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3249.)

#### § 6372b. Preliminary energy audits and energy audits

##### (a) Application by Governor

The Governor of any State may apply to the Secretary at such time as the Secretary may



specify after promulgation of the guidelines under section 6372a(a) of this title for grants to conduct preliminary energy audits of buildings owned by units of local government and public care institutions in such State under this part.

**(b) Grants for conduct of preliminary energy audits**

Upon application under subsection (a) of this section, the Secretary may make grants to States to assist in conducting preliminary energy audits under this part for buildings owned by units of local government and public care institutions. Such audits shall be conducted in accordance with the guidelines prescribed under section 6372a(a)(1) of this title.

**(c) Application by Governor, unit of local government or public care institution**

The Governor of any State, unit of local government or public care institution may apply to the Secretary at such time as the Secretary may specify after promulgation of the guidelines under section 6372a(a) of this title for grants to conduct energy audits of buildings owned by units of local government and public care institutions in such State under this part.

**(d) Grants for conduct of energy audits**

Upon application under subsection (c) of this section the Secretary may make grants to States, units of local government, and public care institutions for purposes of conducting energy audits of facilities under this part in accordance with the guidelines prescribed under section 6372a(a)(2) of this title.

**(e) Audits conducted prior to grant of financial assistance**

If a State, unit of local government, or public care institution, without the use of financial assistance under this section, conducts preliminary energy audits or energy audits which comply with the guidelines prescribed by the Secretary or which are approved by the Secretary, the funds allocated for purposes of this section shall be added to the funds available for technical assistance programs for such State, and shall be in addition to amounts otherwise available for such purpose.

**(f) Restriction on use of funds**

Amounts made available under this section (together with any other amounts made available from other Federal sources) may not be used to pay more than 50 percent of the costs of any preliminary energy audit or energy audit.

(Pub. L. 94-163, title III, §400C, as added Pub. L. 95-619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3250.)

**§ 6372c. State plans**

(a) The Secretary shall invite the State energy agency of each State to submit, within 90 days after the effective date of the guidelines prescribed pursuant to section 6372a of this title, or such longer period as the Secretary may, for good cause, allow, a proposed State plan under this section for such State. Such plan shall include—

(1) the results of preliminary energy audits conducted in accordance with the guidelines

prescribed pursuant to section 6372a(a)(1) of this title, and an estimate of the energy savings that may result from the modification of maintenance and operating procedures in buildings owned by units of local government and public care institutions;

(2) a recommendation as to the types of technical assistance programs considered appropriate for buildings owned by units of local government and public care institutions in such State, together with an estimate of the costs of carrying out such programs;

(3) a program for identifying persons qualified to carry out technical assistance programs;

(4) procedures for the coordination among technical assistance programs within any State and for coordination of programs authorized under this part with other State energy conservation programs,<sup>1</sup>

(5) a description of the policies and procedures to be followed in the allocation of funds among eligible applicants for technical assistance within such State, including procedures to insure that funds will be allocated among eligible applicants on the basis of relative need and including recommendations as to how priorities should be established between buildings owned by units of local government and public care institutions, and among competing proposals taking into account such factors as cost, energy consumption, and energy savings;

(6) procedures to assure that all grants for technical assistance provided under this part are expended in compliance with the requirements of an approved State plan for such State and in compliance with the requirements of this part (including requirements contained in rules promulgated under this part); and

(7) policies and procedures designed to assure that financial assistance provided under this part in such State will be used to supplement, and not to supplant State, local, or other funds.

(b) Each State plan submitted under this section shall be reviewed and approved or disapproved by the Secretary not later than 60 days after receipt by the Secretary. If such plan meets the requirements of subsection (a) of this section, the Secretary shall approve the plan. If a State plan submitted within the 90 day period specified in subsection (a) of this section has not been disapproved within the 60-day period following its receipt by the Secretary, such plan shall be treated as approved by the Secretary. A State energy agency may submit a new or amended plan at any time after the submission of the original plan if the agency obtains the consent of the Secretary.

(Pub. L. 94-163, title III, §400D, as added Pub. L. 95-619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3251; amended Pub. L. 105-388, §5(a)(12), Nov. 13, 1998, 112 Stat. 3479.)

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105-388 substituted semicolon for comma at end.

<sup>1</sup> So in original. The comma probably should be a semicolon.

Subsec. (a)(2). Pub. L. 105-388, which directed substitution of semicolon for comma at end, could not be executed because comma does not appear at end.

Subsec. (a)(3). Pub. L. 105-388 substituted semicolon for comma at end.

**§ 6372d. Applications for grants for technical assistance**

**(a) Limitation on number of applications by units of local government and public care institutions; submittal to State energy agency**

Applications of units of local government and public care institutions for grants for technical assistance under this part shall be made not more than once for any fiscal year. Such applications shall be submitted to the State energy agency and the State energy agency shall make a single submittal to the Secretary containing all applications which comply with the State plan.

**(b) Required information**

Applications for grants for technical assistance under this part shall contain or be accompanied by, such information as the Secretary may reasonably require, including the results of energy audits which comply with guidelines under this part. The annual submittal to the Secretary by the State energy agency under subsection (a) of this section shall include a listing and description of technical assistance proposed to be funded under this part within the State during the fiscal year for which such application is made, and such information concerning expenditures as the Secretary may, by rule, require.

**(c) Compliance required for approval; reasons for disapproval; resubmittal; amendment**

The Secretary shall approve such applications submitted by a State energy agency as he determines to be in compliance with this section and the requirements of the applicable State plan approved under section 6372c of this title. The Secretary shall state the reasons for his disapproval in the case of any application which he disapproves. Any application not approved by the Secretary may be resubmitted by the applicant at any time in the same manner as the original application and the Secretary shall approve such resubmitted application as he determines to be in compliance with this section and the requirements of the State plan. Amendments of an application shall, except as the Secretary may otherwise provide be subject to approval in the same manner as the original application. All or any portions of an application under this section may be disapproved to the extent that funds are not available under this part.

**(d) Suspension of further assistance for failure to comply**

Whenever the Secretary after reasonable notice and opportunity for hearing to any unit of local government or public care institution receiving assistance under this part, finds that there has been a failure to comply substantially with the provisions set forth in the application approved under this section, the Secretary shall notify the unit of local government or public care institution that further assistance will not

be made available to such unit of local government or public care institution under this part until he is satisfied that there is no longer any failure to comply. Until he is so satisfied, no further assistance shall be made to such unit of local government or public care institution under this part.

(Pub. L. 94-163, title III, §400E, as added Pub. L. 95-619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3252.)

**§ 6372e. Grants for technical assistance**

**(a) Authorization of Secretary**

The Secretary may make grants to States and to units of local government and public care institutions in payment of technical assistance program costs for buildings owned by units of local government and public care institutions the applications for which have been approved under section 6372d of this title.

**(b) Restriction on use of funds**

Amounts made available for purposes of this section (together with any amounts available for such purposes from other Federal sources) may not be used to pay more than 50 percent of technical assistance program costs.

**(c) Allocation requirements**

Grants made under this section in any State in any year shall be made in accordance with the requirements contained in section 6372g of this title.

**(d) Prescription of rules limiting allocations to States for administrative expenses**

The Secretary shall prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State.

(Pub. L. 94-163, title III, §400F, as added Pub. L. 95-619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3252.)

**§ 6372f. Authorization of appropriations**

(a) For the purpose of making grants to States to conduct preliminary energy audits and energy audits under this part there is authorized to be appropriated not to exceed \$7,500,000 for the fiscal year ending September 30, 1978, and \$7,500,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

(b) For the purpose of making technical assistance grants under this part to States and to units of local government and public care institutions, there is hereby authorized to be appropriated not to exceed \$17,500,000 for the fiscal year ending September 30, 1978, and \$32,500,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

(c) For the expenses of the Secretary in administering the provisions of this part, there are hereby authorized to be appropriated such sums as may be necessary for each fiscal year in the two consecutive fiscal year periods ending September 30, 1979, such funds to remain available until expended.

(Pub. L. 94-163, title III, §400G, as added Pub. L. 95-619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3253.)

**§ 6372g. Allocation of grants**

(a) Grants made under this part shall be allocated among the States in accordance with a formula to be prescribed, by rule, by the Secretary, taking into account population and climate of each State, and such other factors as the Secretary may deem appropriate.

(b) The total amount allocated to any State under subsection (a) of this section in any year shall not exceed 10 percent of the total amount allocated to all the States in such year under such subsection (a) of this section. Except for the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands, not less than 0.5 percent of such total allocation to all States for that year shall be allocated in such year for the total of grants in each State which has an approved State plan under this part.

(Pub. L. 94-163, title III, §400H, as added Pub. L. 95-619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3253.)

**§ 6372h. Administration; detailed description in annual report**

(a) The Secretary may prescribe such rules as may be necessary in order to carry out the provisions of this part.

(b) The Secretary shall include in his annual report a detailed description of the actions taken under this part in the preceding fiscal year and the actions planned to be taken in the subsequent fiscal year. Such description shall show the allocations made (including the allocations made to each State) and include information on the technical assistance carried out with funds allocated, and an estimate of the energy savings, if any, achieved.

(Pub. L. 94-163, title III, § 400I, as added Pub. L. 95-619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3253; amended Pub. L. 96-470, title II, §203(a), Oct. 19, 1980, 94 Stat. 2242; Pub. L. 105-388, §5(a)(13), Nov. 13, 1998, 112 Stat. 3479.)

## AMENDMENTS

1998—Subsec. (b). Pub. L. 105-388 struck out comma after “Secretary shall”.

1980—Subsec. (b). Pub. L. 96-470 substituted “include in his annual report a detailed description” for “within one year after November 9, 1978, and annually thereafter while funds are available under this part, submit to the Congress a detailed report” and “Such description” for “Such report”.

**§ 6372i. Records**

Each recipient of assistance under this part shall keep such records, provide such reports, and furnish such access to books and records as the Secretary may by rule prescribe.

(Pub. L. 94-163, title III, §400J, as added Pub. L. 95-619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3253.)

## PART G—OFF-HIGHWAY MOTOR VEHICLES

## CODIFICATION

This part was, in the original, designated part I and has been changed to part G for purposes of codification.

**§ 6373. Off-highway motor vehicles**

Not later than 1 year after November 9, 1978, the Secretary of Transportation shall complete

a study of the energy conservation potential of recreational motor vehicles, including, but not limited to, aircraft and motor boats which are designed for recreational use, and shall submit a report to the President and to the Congress containing the results of such study.

(Pub. L. 94-163, title III, §385, as added Pub. L. 95-619, title VI, §681(a), Nov. 9, 1978, 92 Stat. 3286.)

## PART H—ENCOURAGING USE OF ALTERNATIVE FUELS

## CODIFICATION

This part was, in the original, designated part J and has been changed to part H for purposes of codification.

**§ 6374. Alternative fuel use by light duty Federal vehicles****(a) Department of Energy program**

(1) Beginning in the fiscal year ending September 30, 1990, the Secretary shall ensure, with the cooperation of other appropriate agencies and consistent with other Federal law, that the maximum number practicable of the vehicles acquired annually for use by the Federal Government shall be alternative fueled vehicles. In no event shall the number of such vehicles acquired be less than the number required under section 13212 of this title.

(2) In any determination of whether the acquisition of a vehicle is practicable under paragraph (1), the initial cost of such vehicle to the United States shall not be considered as a factor unless the initial cost of such vehicle exceeds the initial cost of a comparable gasoline or diesel fueled vehicle by at least 5 percent.

(3)(A) To the extent practicable, the Secretary shall acquire both dedicated and dual fueled vehicles, and shall ensure that each type of alternative fueled vehicle is used by the Federal Government.

(B) Vehicles acquired under this section shall be acquired from original equipment manufacturers. If such vehicles are not available from original equipment manufacturers, vehicles converted to use alternative fuels may be acquired if, after conversion, the original equipment manufacturer's warranty continues to apply to such vehicles, pursuant to an agreement between the original equipment manufacturer and the person performing the conversion. This subparagraph shall not apply to vehicles acquired by the United States Postal Service pursuant to a contract entered into by the United States Postal Service before October 24, 1992, and which terminates on or before December 31, 1997.

(C) Alternative fueled vehicles, other than those described in subparagraph (B), may be acquired solely for the purposes of studies under subsection (b) of this section, whether or not original equipment manufacturer warranties still apply.

(D) In deciding which types of alternative fueled vehicles to acquire in implementing this part, the Secretary shall consider as a factor—

(i) which types of vehicles yield the greatest reduction in pollutants emitted per dollar spent; and

(ii) the source of the fuel to supply the vehicles, giving preference to vehicles that operate

on alternative fuels derived from domestic sources.

(E)(i) Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels unless the Secretary determines that an agency qualifies for a waiver of such requirement for vehicles operated by the agency in a particular geographic area in which—

(I) the alternative fuel otherwise required to be used in the vehicle is not reasonably available to retail purchasers of the fuel, as certified to the Secretary by the head of the agency; or

(II) the cost of the alternative fuel otherwise required to be used in the vehicle is unreasonably more expensive compared to gasoline, as certified to the Secretary by the head of the agency.

(ii) The Secretary shall monitor compliance with this subparagraph by all such fleets and shall report annually to Congress on the extent to which the requirements of this subparagraph are being achieved. The report shall include information on annual reductions achieved from the use of petroleum-based fuels and the problems, if any, encountered in acquiring alternative fuels.

(F) At least 50 percent of the alternative fuels used in vehicles acquired pursuant to this section shall be derived from domestic feedstocks, except to the extent inconsistent with the multilateral trade agreements (as defined in section 3501(4) of title 19). The Secretary shall issue regulations to implement this requirement. For purposes of this subparagraph, the term “domestic” has the meaning given such term in section 13211(7) of this title.

(G) Except to the extent inconsistent with the multilateral trade agreements (as defined in section 3501(4) of title 19), vehicles acquired under this section shall be motor vehicles manufactured in the United States or Canada.

(4) Acquisitions of vehicles under this section shall, to the extent practicable, be coordinated with acquisitions of alternative fueled vehicles by State and local governments.

**(b) Studies**

(1)(A) The Secretary, in cooperation with the Environmental Protection Agency and the National Highway Traffic Safety Administration, shall conduct a study of a representative sample of alternative fueled vehicles in Federal fleets, which shall at a minimum address—

(i) the performance of such vehicles, including performance in cold weather and at high altitude;

(ii) the fuel economy, safety, and emissions of such vehicles; and

(iii) a comparison of the operation and maintenance costs of such vehicles to the operation and maintenance costs of other passenger automobiles and light duty trucks.

(B) The Secretary shall provide a report on the results of the study conducted under subparagraph (A) to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, within one year after the first such vehicles are acquired.

(2)(A) The Secretary and the Administrator of the General Services Administration shall conduct a study of the advisability, feasibility, and timing of the disposal of vehicles acquired under subsection (a) of this section and any problems of such disposal. Such study shall take into account existing laws governing the sale of Government vehicles and shall specifically focus on when to sell such vehicles and what price to charge, without compromising studies of the use of such vehicles authorized under this part.

(B) The Secretary and the Administrator of the General Services Administration shall report the results of the study conducted under subparagraph (A) to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, within 12 months after funds are appropriated for carrying out this section.

(3) Studies undertaken under this subsection shall be coordinated with relevant testing activities of the Environmental Protection Agency and the Department of Transportation.

**(c) Availability to public**

To the extent practicable, at locations where vehicles acquired under subsection (a) of this section are supplied with alternative fuels, such fuels shall be offered for sale to the public. The head of the Federal agency responsible for such a location shall consider whether such sale is practicable, taking into account, among other factors—

(1) whether alternative fuel is commercially available for vehicles in the vicinity of such location;

(2) security and safety considerations;

(3) whether such sale is in accordance with applicable local, State, and Federal law;

(4) the ease with which the public can access such location; and

(5) the cost to the United States of such sale.

**(d) Federal agency use of demonstration vehicles**

(1) Upon the request of the head of any agency of the Federal Government, the Secretary shall ensure that such Federal agency be provided with vehicles acquired under subsection (a) of this section to the maximum extent practicable.

(2)(A) Funds appropriated under this section for the acquisition of vehicles under subsection (a) of this section shall be applicable only to the portion of the cost of vehicles acquired under subsection (a) of this section which exceeds the cost of comparable gasoline or diesel fueled vehicles.

(B) To the extent that appropriations are available for such purposes, the Secretary shall ensure that the cost to any Federal agency receiving a vehicle under paragraph (1) shall not exceed the cost to such agency of a comparable gasoline or diesel fueled vehicle.

(3) Only one-half of the vehicles acquired under this section by an agency of the Federal Government shall be counted against any limitation under law, Executive order, or executive or agency policy on the number of vehicles which may be acquired by such agency.

(4) Any Federal agency receiving a vehicle under paragraph (1) shall cooperate with studies undertaken by the Secretary under subsection (b) of this section.

**(e) Detail of personnel**

Upon the request of the Secretary, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Department of Energy to assist the Secretary in carrying out the Secretary's duties under this section.

**(f) Exemptions**

(1) Vehicles acquired under this section shall not be counted in any calculation of the average fuel economy of the fleet of passenger automobiles acquired in a fiscal year by the United States.

(2) The incremental cost of vehicles acquired under this section over the cost of comparable gasoline or diesel fueled vehicles shall not be applied to any calculation with respect to a limitation under law on the maximum cost of individual vehicles which may be acquired by the United States.

**(g) Definitions**

For purposes of this part—

(1) the term "acquired" means leased for a period of sixty continuous days or more, or purchased;

(2) the term "alternative fuel" means methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 70 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits;

(3) the term "alternative fueled vehicle" means a dedicated vehicle or a dual fueled vehicle;

(4) the term "dedicated vehicle" means—

(A) a dedicated automobile, as such term is defined in section 32901(a)(7)<sup>1</sup> of title 49; or

(B) a motor vehicle, other than an automobile, that operates solely on alternative fuel;

(5) the term "dual fueled vehicle" means—

(A) dual fueled automobile, as such term is defined in section 32901(a)(8)<sup>1</sup> of title 49; or

(B) a motor vehicle, other than an automobile, that is capable of operating on alternative fuel and is capable of operating on gasoline or diesel fuel; and

(6) the term "heavy duty vehicle" means a vehicle of greater than 8,500 pounds gross vehicle weight rating.

**(h) Funding**

(1) For the purposes of this section, there are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 1998, to remain available until expended.

(2) The authority of the Secretary to obligate amounts to be expended under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

(Pub. L. 94-163, title III, §400AA, as added Pub. L. 100-494, §4(a), Oct. 14, 1988, 102 Stat. 2442; amended Pub. L. 102-486, title III, §§302(a), 309, Oct. 24, 1992, 106 Stat. 2868, 2874; Pub. L. 104-66, title I, §§1051(a), 1052(e), Dec. 21, 1995, 109 Stat. 716, 718; Pub. L. 105-388, §5(a)(14), Nov. 13, 1998, 112 Stat. 3479; Pub. L. 106-36, title I, §1002(h), June 25, 1999, 113 Stat. 134; Pub. L. 109-58, title VII, §701, Aug. 8, 2005, 119 Stat. 814.)

## REFERENCES IN TEXT

Paragraphs (7) and (8) of section 32901(a) of title 49, referred to in subsec. (g)(4)(A), (5)(A), were redesignated (8) and (9), respectively, and a new par. (7) was enacted by Pub. L. 110-140, title I, §103(a)(2), (3), Dec. 19, 2007, 121 Stat. 1501.

## CODIFICATION

In subsec. (g)(4)(A), (5)(A), "section 32901(a)(7) of title 49" substituted for "section 513(h)(1)(C) of the Motor Vehicle Information Cost Savings Act" and "section 32901(a)(8) of title 49" substituted for "section 513(h)(1)(D) of the Motor Vehicle Information and Cost Savings Act", respectively, on authority of Pub. L. 103-272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

## AMENDMENTS

2005—Subsec. (a)(3)(E). Pub. L. 109-58 amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: "Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels unless the Secretary determines that operation on such alternative fuels is not feasible."

1999—Subsec. (a)(3)(F), (G). Pub. L. 106-36 substituted "multilateral trade agreements (as defined in section 3501(4) of title 19)" for "General Agreement on Tariffs and Trade".

1998—Subsecs. (h), (i). Pub. L. 105-388 redesignated subsec. (i) as (h).

1995—Subsec. (b)(1)(B). Pub. L. 104-66, §1052(e), struck out before period at end " , and annually thereafter".

Subsec. (b)(3) to (5). Pub. L. 104-66, §1051(a), redesignated par. (5) as (3) and struck out former par. (3) which directed Secretary to conduct study of heavy duty vehicles acquired under Department of Energy program and report results to Congress and par. (4) which directed Secretary to conduct study of advisability of heavy duty vehicle disposal and report results to Congress.

1992—Subsec. (a)(1). Pub. L. 102-486, §302(a)(1), substituted "vehicles" for "passenger automobiles and light duty trucks" before "acquired annually for use" and "alternative fueled vehicles. In no event shall the number of such vehicles acquired be less than the number required under section 13212 of this title." for "alcohol powered vehicles, dual energy vehicles, natural gas powered vehicles, or natural gas dual energy vehicles."

Subsec. (a)(3). Pub. L. 102-486, §302(a)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "The Secretary shall, to the extent practicable and consistent with this part, ensure that the number of dual energy vehicles acquired under this subsection is at least as great as the number of alcohol powered vehicles acquired under this subsection, and that the number of natural gas dual energy vehicles acquired under this subsection is at least as great as the number of natural gas powered vehicles acquired under this subsection. To the extent practicable, both vehicles capable of operating on alcohol and vehicles capable of operating on natural gas shall be acquired in carrying

<sup>1</sup> See References in Text note below.

out this subsection, and such vehicles shall be supplied by original equipment manufacturers.”

Subsec. (a)(4). Pub. L. 102-486, §302(a)(3), added par. (4).

Subsec. (b)(1)(A). Pub. L. 102-486, §309, substituted “a representative sample of alternative fueled vehicles in Federal fleets” for “the vehicles acquired under subsection (a) of this section”.

Subsec. (b)(3) to (5). Pub. L. 102-486, §302(a)(4), added pars. (3) to (5).

Subsec. (c). Pub. L. 102-486, §302(a)(5), in introductory provisions substituted “alternative fuels, such fuels” for “alcohol or natural gas, alcohol or natural gas” and in par. (1) substituted “alternative fuel” for “alcohol or natural gas”.

Subsec. (d)(2)(B). Pub. L. 102-486, §302(a)(6), substituted “To the extent that appropriations are available for such purposes, the Secretary” for “The Secretary”.

Subsec. (g)(2) to (6). Pub. L. 102-486, §302(a)(7), added pars. (2) to (6) and struck out former pars. (2) to (6) which read as follows:

“(2) the term ‘alcohol’ means a mixture containing 85 percent or more by volume methanol, ethanol, or other alcohols, in any combination;

“(3) the term ‘alcohol powered vehicle’ means a vehicle designed to operate exclusively on alcohol;

“(4) the term ‘dual energy vehicle’ means a vehicle which is capable of operating on alcohol and on gasoline or diesel fuel;

“(5) the term ‘natural gas dual energy vehicle’ means a vehicle which is capable of operating on natural gas and on gasoline or diesel fuel; and

“(6) the term ‘natural gas powered vehicle’ means a vehicle designed to operate exclusively on natural gas.”

Subsec. (i)(1). Pub. L. 102-486, §302(a)(8), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “For the purposes of this section, there are authorized to be appropriated for the fiscal year ending September 30, 1990, \$5,000,000, for the fiscal year ending September 30, 1991, \$3,000,000, for the fiscal year ending September 30, 1992, \$2,000,000, and for the fiscal year ending September 30, 1993, \$2,000,000.”

#### CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

#### TERMINATION DATE

Section 4(b) of Pub. L. 100-494, which provided that this section and the amendments made by this section (enacting this part) were to cease to be effective after Sept. 30, 1997, was repealed by Pub. L. 102-486, title III, §302(b), Oct. 24, 1992, 106 Stat. 2871.

#### FINDINGS

Section 2 of Pub. L. 100-494 provided that: “The Congress finds and declares that—

“(1) the achievement of long-term energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

“(2) the displacement of energy derived from imported oil with alternative fuels will help to achieve energy security and improve air quality;

“(3) transportation uses account for more than 60 percent of the oil consumption of the Nation;

“(4) the Nation’s security, economic, and environmental interests require that the Federal Government should assist clean-burning, nonpetroleum transportation fuels to reach a threshold level of commercial application and consumer acceptability at which they can successfully compete with petroleum-based fuels;

“(5) methanol, ethanol, and natural gas are proven transportation fuels that burn more cleanly and efficiently than gasoline and diesel fuel;

“(6) the production and use as transportation fuels of ethanol, methanol made from natural gas or biomass, and compressed natural gas have been estimated in some studies to release less carbon dioxide than comparable quantities of petroleum-based fuel;

“(7) the amount of carbon dioxide released with methanol from a coal-to-methanol industry using currently available technologies has been estimated in some studies to be significantly greater than the amount released with a comparable quantity of petroleum-based fuel;

“(8) there exists evidence that manmade pollution—the release of carbon dioxide, chlorofluorocarbons, methane, and other trace gases into the atmosphere—may be producing a long term and substantial increase in the average temperature on Earth, a phenomenon known as global warming through the greenhouse effect; and

“(9) ongoing pollution and deforestation may be contributing now to an irreversible process producing unacceptable global climate changes; necessary actions must be identified and implemented in time to protect the climate, including the development of technologies to control increased carbon dioxide emissions that result with methanol from a coal-to-methanol industry.”

#### PURPOSE

Section 3 of Pub. L. 100-494 provided that: “The purpose of this Act [see Short Title of 1988 Amendment note set out under section 6201 of this title] is to encourage—

“(1) the development and widespread use of methanol, ethanol, and natural gas as transportation fuels by consumers; and

“(2) the production of methanol, ethanol, and natural gas powered motor vehicles.”

#### USE OF NONSTANDARD FUELS

Section 5 of Pub. L. 100-494 provided that: “No guaranty or warranty with respect to any passenger automobile or light-duty truck acquired by the United States after October 1, 1989, shall be voided or reduced in effect by reason of the operation of such vehicle with any fuel for which a currently effective waiver, which includes a limitation regarding Reid vapor pressure with respect to such fuel, has been issued by the Administrator of the Environmental Protection Agency under section 211(f) of the Clean Air Act (42 U.S.C. 7545(f)).”

### § 6374a. Alternative fuels truck commercial application program

#### (a) Establishment

The Secretary, in cooperation with manufacturers of heavy duty engines and with other Federal agencies, shall establish a commercial application program to study the use of alternative fuels in heavy duty trucks and, if appropriate, other heavy duty applications.

#### (b) Funding

(1) There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for fiscal years 1993

through 1995, to remain available until expended.

(2) The authority of the Secretary to obligate amounts to be expended under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

(Pub. L. 94-163, title III, §400BB, as added Pub. L. 100-494, §4(a), Oct. 14, 1988, 102 Stat. 2444; amended Pub. L. 102-486, title IV, §401, Oct. 24, 1992, 106 Stat. 2875.)

#### AMENDMENTS

1992—Subsec. (a). Pub. L. 102-486, §401(a), substituted “alternative fuels” for “alcohol and natural gas”.

Subsec. (b)(1). Pub. L. 102-486, §401(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “There are authorized to be appropriated for the period encompassing the fiscal years ending September 30, 1990, September 30, 1991, and September 30, 1992, a total of \$2,000,000 for alcohol powered vehicles and dual energy vehicles, and a total of \$2,000,000 for natural gas powered vehicles and natural gas dual energy vehicles, to carry out the purposes of this section.”

### § 6374b. Alternative fuels bus program

#### (a) Testing

The Secretary, in cooperation with the Administrator of the Environmental Protection Agency and the Administrator of the National Highway Traffic Safety Administration, shall, beginning in the fiscal year ending September 30, 1990, assist State and local government agencies in the testing in urban settings of buses capable of operating on alternative fuels for the emissions levels, durability, safety, and fuel economy of such buses, comparing the different types with each other and with diesel powered buses, as such buses will be required to operate under Federal safety and environmental standards applicable to such buses for the model year 1991. To the extent practicable, testing assisted under this section shall apply to each of the various types of alternative fuel buses.

#### (b) Funding

There are authorized to be appropriated for the period encompassing the fiscal years ending September 30, 1990, September 30, 1991, and September 30, 1992, a total of \$2,000,000 to carry out the purposes of this section.

#### (c) “Bus” defined

For purposes of this section, the term “bus” means a vehicle which is designed to transport 30 individuals or more.

(Pub. L. 94-163, title III, §400CC, as added Pub. L. 100-494, §4(a), Oct. 14, 1988, 102 Stat. 2445; amended Pub. L. 102-486, title IV, §402(1), Oct. 24, 1992, 106 Stat. 2875.)

#### AMENDMENTS

1992—Subsec. (a). Pub. L. 102-486 substituted “alternative fuels” for “alcohol and buses capable of operating on natural gas” and “each of the various types of alternative fuel buses” for “both buses capable of operating on alcohol and buses capable of operating on natural gas”.

### § 6374c. Omitted

#### CODIFICATION

Section, Pub. L. 94-163, title III, §400DD, as added Pub. L. 100-494, §4(a), Oct. 14, 1988, 102 Stat. 2445;

amended Pub. L. 102-486, title IV, §402(2), (3), Oct. 24, 1992, 106 Stat. 2876, provided for establishment of the Interagency Commission on Alternative Motor Fuels and the United States Alternative Fuels Council, required the Commission to submit interim reports and a final report by Sept. 30, 1992, to Congress, and terminated the Commission and Council upon submission of the final report.

### § 6374d. Studies and reports

#### (a) Methanol study

(1) The Secretary shall study methanol plants, including the costs and practicability of such plants, that are—

(A) capable of utilizing current domestic supplies of unutilized natural gas;

(B) relocatable; or

(C) suitable for natural gas to methanol conversion by natural gas distribution companies.

(2) For purposes of this subsection, the term “unutilized natural gas” means gas that is available in small remote fields and cannot be economically transported to natural gas pipelines, or gas the quality of which is so poor that extensive and uneconomic pretreatment is required prior to its introduction into the natural gas distribution system.

(3) The Secretary shall submit a report under this subsection to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, no later than September 30, 1990.

#### (b) Omitted

#### (c) Public participation

Adequate opportunity shall be provided for public comment on the reports required by this section before they are submitted to the Congress, and a summary of such comments shall be attached to such reports.

(Pub. L. 94-163, title III, §400EE, as added Pub. L. 100-494, §4(a), Oct. 14, 1988, 102 Stat. 2447.)

#### REFERENCES IN TEXT

This part, referred to in subsec. (b)(1)(A), was in the original “the Alternative Motor Fuels Act of 1988”, Pub. L. 100-494, Oct. 14, 1988, 102 Stat. 2441, which is classified principally to this part. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 6201 of this title and Tables.

#### CODIFICATION

Subsec. (b) of this section, which required the Administrator of the Environmental Protection Agency to submit biennially to Congress a report which includes a comprehensive analysis of the environmental impacts associated with the production and use of alternative motor vehicle fuels under this part and an extended forecast of the environmental effects of such production and use, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the 25th item on page 163 of House Document No. 103-7.

#### CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by

Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

#### § 6374e. Federal fleet conservation requirements

##### (a) Mandatory reduction in petroleum consumption

###### (1) In general

Not later than 18 months after December 19, 2007, the Secretary shall issue regulations for Federal fleets subject to section 6374 of this title to require that, beginning in fiscal year 2010, each Federal agency shall reduce petroleum consumption and increase alternative fuel consumption each year by an amount necessary to meet the goals described in paragraph (2).

###### (2) Goals

The goals of the requirements under paragraph (1) are that not later than October 1, 2015, and for each year thereafter, each Federal agency shall achieve at least a 20 percent reduction in annual petroleum consumption and a 10 percent increase in annual alternative fuel consumption, as calculated from the baseline established by the Secretary for fiscal year 2005.

###### (3) Milestones

The Secretary shall include in the regulations described in paragraph (1)—

(A) interim numeric milestones to assess annual agency progress towards accomplishing the goals described in that paragraph; and

(B) a requirement that agencies annually report on progress towards meeting each of the milestones and the 2015 goals.

##### (b) Plan

###### (1) Requirement

###### (A) In general

The regulations under subsection (a) shall require each Federal agency to develop a plan, and implement the measures specified in the plan by dates specified in the plan, to meet the required petroleum reduction levels and the alternative fuel consumption increases, including the milestones specified by the Secretary.

###### (B) Inclusions

The plan shall—

(i) identify the specific measures the agency will use to meet the requirements of subsection (a)(2); and

(ii) quantify the reductions in petroleum consumption or increases in alternative fuel consumption projected to be achieved by each measure each year.

##### (2) Measures

The plan may allow an agency to meet the required petroleum reduction level through—

(A) the use of alternative fuels;

(B) the acquisition of vehicles with higher fuel economy, including hybrid vehicles, neighborhood electric vehicles, electric vehicles, and plug-in hybrid vehicles if the vehicles are commercially available;

(C) the substitution of cars for light trucks;

(D) an increase in vehicle load factors;

(E) a decrease in vehicle miles traveled;

(F) a decrease in fleet size; and

(G) other measures.

(Pub. L. 94-163, title III, §400FF, as added Pub. L. 110-140, title I, §142, Dec. 19, 2007, 121 Stat. 1518.)

###### EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as a note under section 1824 of Title 2, The Congress.

#### SUBCHAPTER IV—GENERAL PROVISIONS

##### PART A—ENERGY DATA BASE AND ENERGY INFORMATION

#### § 6381. Verification examinations

##### (a) Authority of Comptroller General

The Comptroller General may conduct verification examinations with respect to the books, records, papers, or other documents of—

(1) any person who is required to submit energy information to the Secretary, the Department of the Interior, or the Federal Energy Regulatory Commission pursuant to any rule, regulation, order, or other legal process of such Secretary, Department or Commission;

(2) any person who is engaged in the production, processing, refining, transportation by pipeline, or distribution (at other than the retail level) of energy resources—

(A) if such person has furnished, directly or indirectly, energy information (without regard to whether such information was furnished pursuant to legal requirements) to any Federal agency (other than the Internal Revenue Service), and

(B) if the Comptroller General of the United States determines that such information has been or is being used or taken into consideration, in whole or in part, by a Federal agency in carrying out responsibilities committed to such agency; or

(3) any vertically integrated petroleum company with respect to financial information of such company related to energy resource exploration, development, and production and the transportation, refining and marketing of energy resources and energy products.

##### (b) Request for examination

The Comptroller General shall conduct verification examinations of any person or company described in subsection (a) of this section, if requested to do so by any duly established committee of the Congress having legislative or oversight responsibilities under the rules of the