that would allow small facilities which produce renewable energy to compete effectively with producers of energy from nonrenewable sources.’’


Subsec. (i)(1), Pub. L. 102–486, §1207(b), inserted “and energy efficiency” after “renewable energy” wherever appearing.

Subsec. (g), Pub. L. 102–486, §1207(c), struck out subsec. (g) which read as follows: ‘‘For purposes of this section, the term ‘renewable energy’ includes energy efficiency to the extent it is a part of a renewable energy system or technology.’’

Subsec. (h), Pub. L. 102–486, §1207(d), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: ‘‘There are authorized to be appropriated to the Secretary for activities of the interagency working group established under subsection (d) of this section not to exceed—

‘‘(1) $3,000,000 for fiscal year 1991;
‘‘(2) $3,300,000 for fiscal year 1992; and
‘‘(3) $3,600,000 for fiscal year 1993.’’

1989—Subsec. (c)(2)(D), Pub. L. 101–218, §7(a)(1), inserted “and to potential end users, including other industry sectors in foreign countries such as health care, rural development, communications, and refrigeration, and others,” after “commerce,”.

Subsec. (c)(2)(D)(i), Pub. L. 101–218, §7(a)(2), substituted “export and export financing opportunities” for “export opportunities”.

Subsec. (d), Pub. L. 101–218, §7(b), designated existing provisions as par. (1) and added par. (2).

Subsecs. (e) to (h), Pub. L. 101–218, §7(c), added subsecs. (e) to (h).

EFFECTIVE DATE

Section 3 of Pub. L. 98–370 provided that: ‘‘The amendments made by this Act [enacting this section and a provision set out as a note under section 6201 of this title] shall take effect on the date of the enactment of this Act [July 18, 1984].’’

PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS

AMENDMENTS


PRIOR PROVISIONS

A prior part C, consisting of sections 6281 and 6282, was repealed by Pub. L. 106–469, title I, §104(3), Nov. 9, 2000, 114 Stat. 2033.


§6283. Summer fill and fuel budgeting programs

(a) Definitions

In this section:

(1) Budget contract

The term ‘‘budget contract’’ means a contract between a retailer and a consumer under which the heating expenses of the consumer are spread evenly over a period of months.

(2) Fixed-price contract

The term ‘‘fixed-price contract’’ means a contract between a retailer and a consumer under which the retailer charges the consumer a set price for propane, kerosene, or heating oil without regard to market price fluctuations.

(3) Price cap contract

The term ‘‘price cap contract’’ means a contract between a retailer and a consumer under 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.


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

(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)1 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.

(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).


(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.

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1 See References in Text note below.
(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 by the Secretary.

(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.

(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 1 1/8 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 95 watt tubular fluorescent lamp that is 96 inches in length and 1 1/2 inches in diameter, and conforms to ANSI standard C78.81–2003 (Data Sheet 7881–ANSI–3000–1).

(O) The term "F96T12HO/ES lamp" means a nominal 95 watt tubular fluorescent lamp that is 96 inches in length and 1 1/2 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
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So in original. Probably should be followed by a period.

3 So in original. The word “and” probably should not appear.

4 So in original. Probably should be followed by a closing parenthesis.

(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.

(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) 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—

(1) 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.

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

(1) An appliance lamp.

(2) A black light lamp.

(3) A bug lamp.

(4) A colored lamp.

(5) An infrared lamp.

(6) A left-hand thread lamp.

(7) A marine lamp.

(8) 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.

(XX) A G shape lamp (as defined in ANSI C78.20–2003 and C79.1–2002)

(XXI) A T shape lamp (as defined in ANSI C78.20–2003 and C79.1–2002)

(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.

(2) 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.
(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
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incandescent lamp designated and marketed as a colored lamp that has—

(i) a color rendering index of less than 50,

(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, kitchen faucet, 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 head.

(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 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 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 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, or test transformer; or

(iii) any transformer not listed in clause (i) 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; and

(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 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/cm².

(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 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.


(50) 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.
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(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: Efficiency = \( \frac{P_{in}}{P_{out}} \).

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

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

(ii) \( P_{in} \) 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, \( P_{in} \) and \( P_{out} \) 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, \( P_{in} \) and \( P_{out} \) 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;
(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)—
(1) lamps shall be started by first providing a high voltage pulse for ionization of the gas to produce a glow discharge; and
(2) to complete the starting process, power shall be provided by the ballast to sustain the discharge through the glow-to-arc transition.

References in Text

Amendments

1988—Subsec. (a)(1). Pub. L. 100-357, §2(a)(2), inserted “and urinals” after “energy use”, or, in the case of showerheads, faucets, water closets, and urinals, “water use,” after “energy use”. 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 “be consumed annually”. Pub. L. 102-486, §123(b)(5), added pars. (30) and (31). 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.”

(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.”

Administrator of the Federal Energy Administration, wherever appearing.

**Effective Date of 2007 Amendment**


**Section 6229**

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.


5. Furnaces.

6. Dishwashers.

7. Clothes dryers.

8. Direct heating equipment.


11. Television sets.

12. Fluorescent lamp ballasts.

13. General service fluorescent lamps, general service incandescent lamps, and incandescent reflector lamps.


15. Faucets.


17. Urinals.

18. Metal halide lamp fixtures.

19. 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, divided 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.

References in Text

This chapter, referred to in subsec. (b)(1), 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.
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 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], 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 325 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 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 luminaire products 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 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 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 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 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 such program is consistent with the objectives of subsection (a).
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: "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.

(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)]."
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 (i) 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–2–1996).

(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 Refrigeration 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

(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 C93.6–2005, 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 petition (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 energy 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 existing 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.

AMENDMENTS

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 “water use” 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 “or, in the case of showerheads, faucets, water closets, or 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 “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).
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).
Subsec. (a)(3), Pub. L. 95–619, §§ 625(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. (c). Pub. L. 95–619, §§ 621(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”, and substituted “Secretary” for “Administrator” wherever appearing.
Subsec. (a)(5), Pub. L. 95–619, § 691(b)(2), substituted “Secretary” for “Administrator” wherever appearing.
Subsec. (a)(6). Pub. L. 95–619, § 621(b), redesignated existing provisions as subpar. (A) and in subpar. (A) as so redesignated, substituted “Secretary” for “Administrator” wherever appearing.
Subsec. (c). Pub. L. 95–619, § 621(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 (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 or is not likely to assist consumers in making purchasing decisions.

(2)(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) of this section, such information as the Commission deems necessary to enable consumers to see 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 initiative 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 any 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)\(^1\) 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 testing 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 6290(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)\(^1\) of section 6292(a) of this title (or a 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-

\(^1\) See References in Text note below.
(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 to which such rule applies, the Commission shall prescribe labeling rules with respect to covered products of such type (or class thereof) specified in paragraphs (1) through (12) of section 6292(a) of this title. If the Commission determines that labeling in accordance with such rules is not likely to assist consumers in making purchasing decisions or in using such product, 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 making 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) 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 consumption (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 of such type (or class thereof) specified in paragraphs (1) through (12) of section 6292(a) of this title.

(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) 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 prescribed 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 the tag to be used in lieu of a label in any case in which the Commission finds that a tag will carry out the purpose 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-
applicable 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 6295 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)(1) or (6) of subsection (a).

(d) Effective date

A rule under this section (or an amendment thereto) shall not apply to any covered product manufactured 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) whether the imposition of labeling requirements under this section would be feasible and useful to consumers in making purchasing decisions;

(2) whether the imposition of labeling requirements under this section would be feasible and useful to consumers in making purchasing decisions and appropriate to carry out the purposes of this chapter;

(3) whether the imposition of labeling requirements under this section would be feasible and useful to consumers in making purchasing decisions and appropriate to carry out the purposes of this chapter;

(4) whether the imposition of labeling requirements under this section would be feasible and useful to consumers in making purchasing decisions and appropriate to carry out the purposes of this chapter;

(5) whether the imposition of labeling requirements under this section would be feasible and useful to consumers in making purchasing decisions and appropriate to carry out the purposes of this chapter;

(6) whether the imposition of labeling requirements under this section would be feasible and useful to consumers in making purchasing decisions and appropriate to carry out the purposes of this chapter;

(7) whether the imposition of labeling requirements under this section would be feasible and useful to consumers in making purchasing decisions and appropriate to carry out the purposes of this chapter;

(8) whether the imposition of labeling requirements under this section would be feasible and useful to consumers in making purchasing decisions and appropriate to carry out the purposes of this chapter;

(9) whether the imposition of labeling requirements under this section would be feasible and useful to consumers in making purchasing decisions and appropriate to carry out the purposes of this chapter.

(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.

References in Text

This chapter, referred to in subsections (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. 671, 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 Table.

Paragraph (19) of section 6292(a) of this title, referred to in subsections (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. 1584, 1593, 1595.

Amendments


2005—Subsec. (a)(2)(F), (G). Pub. L. 109–58, §137(a), added subpars. (F) and (G).


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


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 6290(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(a)” 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)”.


P. L. 100–12, § 11(b)(2)(F), inserted heading.

1978—Subsec. (a)(1), (2). Pub. L. 95–619, § 425(c), 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. 1384, 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 lifetime, 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-
able 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.

AMENDMENTS

§ 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>
<thead>
<tr>
<th>Type of Refrigerator/Freezer</th>
<th>Energy Use (kWh)</th>
</tr>
</thead>
</table>
| Refrigerators and
Refrigerator-Freezers, with automatic defrost | 21.8 AV+429 |
| Refrigerator-Freezers—partial automatic defrost | 21.8 AV+429 |
| Refrigerators—automatic defrost: | |
| Top mounted freezer without ice | 23.5 AV+471 |
| Side mounted freezer without ice | 23.7 AV+488 |
| Bottom mounted freezer without ice | 23.7 AV+488 |
| Top mounted freezer with through the door ice service | 26.4 AV+535 |
| Side mounted freezer with through the door ice | 30.9 AV+547 |
| Upright Freezers with: | |
| Manual defrost | 10.9 AV+422 |
| Automatic defrost | 16.0 AV+623 |
| Chest Freezers and all other freezers | 14.8 AV+223 |

(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)(1) 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)(1) 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)(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:

<table>
<thead>
<tr>
<th>Product Class: Without Reverse Cycle and With Louvered Sides:</th>
<th>Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 6,000 Btu</td>
<td>8.0</td>
</tr>
<tr>
<td>6,000 to 7,999 Btu</td>
<td>8.5</td>
</tr>
<tr>
<td>8,000 to 13,999 Btu</td>
<td>9.0</td>
</tr>
<tr>
<td>14,000 to 19,999 Btu</td>
<td>8.8</td>
</tr>
<tr>
<td>20,000 and more Btu</td>
<td>8.2</td>
</tr>
</tbody>
</table>

With Reverse Cycle and Without Louvered Sides:

<table>
<thead>
<tr>
<th>Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.0</td>
</tr>
<tr>
<td>8.5</td>
</tr>
<tr>
<td>8.5</td>
</tr>
<tr>
<td>8.5</td>
</tr>
<tr>
<td>8.2</td>
</tr>
</tbody>
</table>

With Reverse Cycle and With Louvered Sides:

<table>
<thead>
<tr>
<th>Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.0</td>
</tr>
<tr>
<td>8.5</td>
</tr>
<tr>
<td>8.5</td>
</tr>
<tr>
<td>8.5</td>
</tr>
<tr>
<td>8.2</td>
</tr>
</tbody>
</table>

With Reverse Cycle, Without Louvered Sides:

<table>
<thead>
<tr>
<th>Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.0</td>
</tr>
</tbody>
</table>

(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, 1993.

(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;

(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.


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


(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, 1995. The Secretary shall publish a final rule no later than five years after 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: \( 0.62 - (0.0019 \times \text{Volume in gallons}) \)

(B) Oil Water Heater: \( 0.59 - (0.0019 \times \text{Volume in gallons}) \)

(C) Electric Water Heater: \( 0.96 - (0.00132 \times \text{Volume in gallons}) \)

(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:

<table>
<thead>
<tr>
<th>Wall Fan type</th>
<th>Up to 42,000 Btu/hour</th>
<th>73% AFUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Over 42,000 Btu/hour</td>
<td>74% AFUE</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Gravity type</th>
<th>Up to 10,000 Btu/hour</th>
<th>59% AFUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Over 10,000 Btu/hour up to 12,000 Btu/hour</td>
<td>60% AFUE</td>
<td></td>
</tr>
<tr>
<td>Over 12,000 Btu/hour up to 15,000 Btu/hour</td>
<td>61% AFUE</td>
<td></td>
</tr>
<tr>
<td>Over 15,000 Btu/hour up to 19,000 Btu/hour</td>
<td>62% AFUE</td>
<td></td>
</tr>
<tr>
<td>Over 19,000 Btu/hour up to 27,000 Btu/hour</td>
<td>63% AFUE</td>
<td></td>
</tr>
<tr>
<td>Over 27,000 Btu/hour up to 46,000 Btu/hour</td>
<td>64% AFUE</td>
<td></td>
</tr>
<tr>
<td>Over 46,000 Btu/hour</td>
<td>65% AFUE</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Floor Type</th>
<th>Up to 37,000 Btu/hour</th>
<th>56% AFUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Over 37,000 Btu/hour</td>
<td>57% AFUE</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Room Type</th>
<th>Up to 18,000 Btu/hour</th>
<th>57% AFUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Over 18,000 Btu/hour up to 20,000 Btu/hour</td>
<td>58% AFUE</td>
<td></td>
</tr>
<tr>
<td>Over 20,000 Btu/hour up to 27,000 Btu/hour</td>
<td>63% AFUE</td>
<td></td>
</tr>
<tr>
<td>Over 27,000 Btu/hour up to 46,000 Btu/hour</td>
<td>64% AFUE</td>
<td></td>
</tr>
<tr>
<td>Over 46,000 Btu/hour</td>
<td>65% AFUE</td>
<td></td>
</tr>
</tbody>
</table>

(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:

<table>
<thead>
<tr>
<th>Boiler Type</th>
<th>Minimum Annual Fuel Utilization Efficiency</th>
<th>Design Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gas Hot Water</td>
<td>82%</td>
<td>No Constant Burning Pilot, Automatic Means for Adjusting Water Temperature</td>
</tr>
<tr>
<td>Gas Steam</td>
<td>80%</td>
<td>No Constant Burning Pilot</td>
</tr>
<tr>
<td>Oil Hot Water</td>
<td>84%</td>
<td>Automatic Means for Adjusting Temperature</td>
</tr>
<tr>
<td>Oil Steam</td>
<td>82%</td>
<td>None</td>
</tr>
<tr>
<td>Electric Hot Water</td>
<td>None</td>
<td>Automatic Means for Adjusting Temperature</td>
</tr>
<tr>
<td>Electric Steam</td>
<td>None</td>
<td>None</td>
</tr>
</tbody>
</table>

(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, 1990; 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, F60T12, 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:

<table>
<thead>
<tr>
<th>Application for Operation of</th>
<th>Ballast Input Voltage</th>
<th>Total Nominal Lamp Watts</th>
<th>Ballast Efficacy Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>one F40T12 lamp</td>
<td>120</td>
<td>40</td>
<td>1.805</td>
</tr>
<tr>
<td></td>
<td>277</td>
<td>40</td>
<td>1.805</td>
</tr>
<tr>
<td>two F40T12 lamps</td>
<td>120</td>
<td>80</td>
<td>1.060</td>
</tr>
<tr>
<td></td>
<td>277</td>
<td>80</td>
<td>1.060</td>
</tr>
<tr>
<td>two F60T12 lamps</td>
<td>120</td>
<td>150</td>
<td>0.570</td>
</tr>
<tr>
<td></td>
<td>277</td>
<td>150</td>
<td>0.570</td>
</tr>
<tr>
<td>two F96T12HO lamps</td>
<td>120</td>
<td>220</td>
<td>0.390</td>
</tr>
<tr>
<td></td>
<td>277</td>
<td>220</td>
<td>0.390</td>
</tr>
</tbody>
</table>

(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, 1998.

(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 standard, 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) manufactured on or after July 1, 2009; 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:

<table>
<thead>
<tr>
<th>Application for operation of</th>
<th>Ballast input voltage</th>
<th>Total nominal lamp watts</th>
<th>Ballast efficacy factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>One F34T12 lamp</td>
<td>120/277</td>
<td>34</td>
<td>2.61</td>
</tr>
<tr>
<td>Two F34T12 lamps</td>
<td>120/277</td>
<td>68</td>
<td>1.35</td>
</tr>
<tr>
<td>Two F96T12/ES lamps</td>
<td>120/277</td>
<td>120</td>
<td>0.77</td>
</tr>
<tr>
<td>Two F96T12HO/ES lamps</td>
<td>120/277</td>
<td>190</td>
<td>0.42</td>
</tr>
</tbody>
</table>

(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) amending 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, 1999.

(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 (B)), 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

<table>
<thead>
<tr>
<th>Lamp Type</th>
<th>Nominal Lamp Wattage</th>
<th>Minimum CRI</th>
<th>Minimum Average Lamp Efficacy (LPW)</th>
<th>Effective Date (Period of Months)</th>
</tr>
</thead>
<tbody>
<tr>
<td>4-foot medium bi-pin</td>
<td>&gt;35 W</td>
<td>69</td>
<td>75.0</td>
<td>36</td>
</tr>
<tr>
<td></td>
<td>≤35 W</td>
<td>45</td>
<td>75.0</td>
<td>36</td>
</tr>
<tr>
<td>2-foot U-shaped</td>
<td>&gt;35 W</td>
<td>69</td>
<td>68.0</td>
<td>36</td>
</tr>
<tr>
<td></td>
<td>≤35 W</td>
<td>45</td>
<td>64.0</td>
<td>36</td>
</tr>
<tr>
<td>8-foot slimline</td>
<td>65 W</td>
<td>69</td>
<td>80.0</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td>≤65 W</td>
<td>45</td>
<td>80.0</td>
<td>18</td>
</tr>
<tr>
<td>8-foot high output</td>
<td>&gt;100 W</td>
<td>69</td>
<td>80.0</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td>≤100 W</td>
<td>45</td>
<td>80.0</td>
<td>18</td>
</tr>
</tbody>
</table>

### Incandescent Reflector Lamps

<table>
<thead>
<tr>
<th>Nominal Lamp Wattage</th>
<th>Minimum Average Lamp Efficacy (LPW)</th>
<th>Effective Date (Period of Months)</th>
</tr>
</thead>
<tbody>
<tr>
<td>40-50</td>
<td>10.5</td>
<td>36</td>
</tr>
<tr>
<td>51-66</td>
<td>11.0</td>
<td>36</td>
</tr>
<tr>
<td>67-85</td>
<td>12.5</td>
<td>36</td>
</tr>
<tr>
<td>86-115</td>
<td>14.0</td>
<td>36</td>
</tr>
<tr>
<td>116-155</td>
<td>14.5</td>
<td>36</td>
</tr>
<tr>
<td>156-285</td>
<td>15.0</td>
<td>36</td>
</tr>
</tbody>
</table>

(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 re-
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flector 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, 2006, 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) 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 lamps 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.

(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); and

(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, 1994, 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 such 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
- 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 of 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

(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.

(A) If the maximum flush volume requirements of ASME Standard A12.19.6-1990 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 A12.19.6 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 A12.19.6—

(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 A12.19.6 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 A12.19.6 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 A12.19.6 for such type or class of low consumption water closet or low consumption 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.

(f) 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) 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) 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 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 general 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)(I)(A); 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.

(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,
(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 paragraphs (1) through (11), and in 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 products 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 restrictive 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 HAWAI'I.—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.—

(1) 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.—

(1) 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 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) D

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 “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) 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 will apply) to other 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.

*So in original. Probably should be “subparagraph (A)(i)”.*
(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—

(1) consider existing definitions and test procedures used for measuring energy consumption in standby mode and other modes; and

(2) assess the current and projected future market for battery chargers and external power supplies.

(C) The assessment under subparagraph (B)(i) shall include—

(1) estimates of the significance of potential energy savings from technical improvements 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.—

(1) 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 (E), 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:

<table>
<thead>
<tr>
<th>Active Mode</th>
<th>Required Efficiency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nameplate Output</td>
<td>(decimal equivalent of a percentage)</td>
</tr>
<tr>
<td>Less than 1 watt</td>
<td>0.5 times the Nameplate Output</td>
</tr>
<tr>
<td>From 1 watt to not more than 51 watts</td>
<td>The sum of 0.09 times the Natural Logarithm of the Nameplate Output and 0.5</td>
</tr>
<tr>
<td>Greater than 51 watts</td>
<td>0.85</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>No-Load Mode</th>
<th>Maximum Consumption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nameplate Output</td>
<td></td>
</tr>
<tr>
<td>Not more than 250 watts</td>
<td>0.5 watts</td>
</tr>
</tbody>
</table>

(B) Noncovered supplies.—A class A external power supply shall not be subject to subparagraph (A) if the class A external power supply is—
§ 6295

SAFETY ALARMS OR SURVEILLANCE SYSTEMS

POWER SUPPLIES FOR CERTAIN SECURITY OR LIFE

ERGY EFFICIENCY STANDARDS TO EXTERNAL

AC–AC Power Supplies, version 1.1” published

erenced in the “Energy Star Program Require-

national Efficiency Marking Protocol, as ref-

rence with the External Power Supply Inter-

by the Environmental Protection Agency.

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 accord-

supply manufactured on or after the later of

July 1, 2008 or December 19, 2007, shall be

marked in accordance with the External Power Supply Inter-

3

national 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.

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.

(E) Nonapplication of No-Load Mode Energy Efficiency Standards to External

Power Supplies for Certain Security or Life Safety Alarms or Surveillance Systems.—

(I) Definition of Security or Life Safety Alarm or Surveillance System.—In this

subparagraph:

(I) In General.—The term “security or life safety alarm or surveillance system”

means equipment designed and marketed to perform any of the following functions

(on a continuous basis):

(aa) Monitor, detect, record, or provide notification of intrusion or access to real

property or physical assets or notification of threats to life safety.

(bb) Deter or control access to real property or physical assets, or prevent

the unauthorized removal of physical assets.

(cc) Monitor, detect, record, or provide notification of fire, gas, smoke, flooding,

or other physical threats to real property, physical assets, or life safety.

(II) Exclusion.—The term “security or life safety alarm or surveillance system”

does not include any product with a principal function other than life safety, secu-

rity, or surveillance that—

(aa) is designed and marketed with a

built-in alarm or theft-deterrent feature; or

(bb) does not operate necessarily and

continuously in active mode.

(ii) Nonapplication of No-Load Mode Requirements.—The No-Load Mode energy ef-

ficiency standards established by this paragraph shall not apply to an external power

supply manufactured before July 1, 2017, that—

(I) is an AC-to-AC external power supply;

(II) has a nameplate output of 20 watts or more;

(III) is certified to the Secretary as being designed to be connected to a security or

life safety alarm or surveillance system component; and

(IV) on establishment within 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”, published by the Envi-

ronmental Protection Agency, of a distinguishing mark for products described in

this clause, is permanently marked with the distinguishing mark.

(iii) Administration.—In carrying out this subparagraph, the Secretary shall—

(I) require, with appropriate safeguard

for the protection of confidential business

information, the submission of unit ship-

ment data on an annual basis; and

(II) restrict the eligibility of external

power supplies for the exemption provided

under this subparagraph on a finding that

a substantial number of the external power

supplies are being marketed to or installed

in applications other than security or life

safety alarm or surveillance systems.

(7) End-Use Products.—An energy conserva-

tion 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 stan-

dards 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 pre-

scribed 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

\footnote{So in original. Probably should be "(4)".}
Energy Star Program performance requirements 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:

<table>
<thead>
<tr>
<th>Product Capacity (pints/day)</th>
<th>Minimum Energy Factor (Liters/kWh)</th>
</tr>
</thead>
<tbody>
<tr>
<td>25.00 or less</td>
<td>2.50</td>
</tr>
<tr>
<td>25.01 – 35.00</td>
<td>2.25</td>
</tr>
<tr>
<td>35.01 – 54.00</td>
<td>1.90</td>
</tr>
<tr>
<td>54.01 – 74.99</td>
<td>1.60</td>
</tr>
<tr>
<td>75.00 or more</td>
<td>1.35</td>
</tr>
</tbody>
</table>

(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:

<table>
<thead>
<tr>
<th>Product Capacity (pints/day)</th>
<th>Minimum Energy Factor (Liters/kWh)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 35.00</td>
<td>1.35</td>
</tr>
<tr>
<td>35.01–45.00</td>
<td>1.50</td>
</tr>
<tr>
<td>45.01–54.00</td>
<td>1.60</td>
</tr>
<tr>
<td>54.01–75.00</td>
<td>1.70</td>
</tr>
<tr>
<td>Greater than 75.00</td>
<td>2.50</td>
</tr>
</tbody>
</table>

(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 (1).
(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).

(hb) 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, heaters, 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.

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)(6). 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. (m). Pub. L. 110–140, §303(a), added subsec. (m) and struck out former subsec. (m) which related to further rulemaking.


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 a standard unless S-acceptable test procedures had been issued, and applicability of standard to products manufactured or imported beginning 3 years after the date of issuance, respectively.


Subsec. (v)(1) to (4). Pub. L. 110–140, §310(d)(1)(B), 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 6, 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 appliance mercury vapor lamp ballasts’” before “shall”.

Subsec. (ff)(1)(A)(ii). (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. (ii) which read as follows: “Adjustable speed controls (either more than 1 speed or variable speed),”.


Subsec. (ff)(4)(C)(i). Pub. L. 110–140, § 316(d)(2)(B)(ii), added cl. (i) and struck out former cl. (i) 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 subsps. (C) and (D) as cl. (i) and (ii), respectively, of subpar. (B).


Subsec. (gg). Pub. L. 110–140, § 313(c), redesignated subsec. (gg) (former subg. redesignated (hh)).


Pub. L. 110–140, § 316(e)(2), 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).

Subsec. (jj). Pub. L. 110–140, § 324(e)(2), (4), redesignated subsec. (gg) (as (hh) and substituted “‘gg’” for “‘ff’”) in two places in par. (2).


Subsec. (nn). Pub. L. 110–140, § 315(c)(4), added subsec. (u) (to (gg)).

Subsec. (uu). Pub. L. 110–140, § 315(c)(5)(A), substituted “paragraph” for “paragraphs”.

Subsec. (vv). Pub. L. 110–140, § 315(c)(5)(B), substituted “ballasts” for “clothes dryers,” and substituted “heating” for “hearing”.


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) to (10) 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 1976, requiring such 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 product listed in section 6292(a)(1) to (10) of this title or in section 6292(a)(11) to (13) of this title.
§ 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 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.


AMENDMENTS


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”.


Subsec. (b)(3)(A). Pub. L. 100–12, § 11(a)(2), inserted “established in or” before “prescribed under”.


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)(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 6296 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”.


§ 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, 2006, 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(k)(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(k)(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 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 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 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 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—

(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)(i) 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 section 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 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 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 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 regulation makes energy use, energy efficiency, or water use of a covered product, within the State, significantly different in nature or magnitude than those prevailing in the United States generally; and

(ii) 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 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 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 United States 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

An applicable 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, 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 of the State meeting the requirements of subsection (b)(1) or (b)(5) of this section.

(4) 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.

(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
AMENDMENTS

2007—Subsec. (b)(1). Pub. L. 110–140, § 321(d), designated existing provisions as subpar. (A) and added subpar. (B).

2005—Subsec. (c)(7), (8). Pub. L. 109–58 added paras. (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(i) 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. (c). Pub. L. 102–486, § 123(h)(3)(A), inserted “, subparagraphs (B) and (C) of section 6295(k)(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. (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” 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. (1) 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

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 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, except 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 both the applicable Federal standard established (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.

§ 6298. Rules

The Commission and the Secretary may each issue such rules as each deems necessary to carry out the provisions of this part.

§ 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 subpenas 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 subpena 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.

AMENDMENTS

1987—Pub. L. 100–12 substituted headings for subsecs. (a) and (b).


§ 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.

§ 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.
§ 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) 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.

(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.

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.”


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.


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”.


F E F T I V E  D A T E  O F  2 0 0 7  A M E N D M E N T

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 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. 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 proper district circuit court 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 propriateness 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 the "Secretary" and "Department of Energy" shall be considered to be references to the "Commission".


AMENDMENTS

1987—Pub. L. 100–12 inserted headings for subsecs. (a) to (d).

1979—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.


§ 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(1) 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.


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.".


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)(3) 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.


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).

1979—Subsec. (a). Pub. L. 95–619, § 425(f), struck out provision in par. (1) which excluded sections 6265 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, 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.

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.


AMENDMENTS

1987—Subsec. (b)(2). Pub. L. 100–12 substituted “section 6295(n)” for “section 6295(k)”. Prior to amendment, subsec. (b)(2) 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.

1998—Subsec. (c)(2). Pub. L. 105–388 substituted “section 6295(n)” for “section 6295(k)”. Prior to amendment, subsec. (c)(2) read as follows: “(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) 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 court 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.
§ 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.

(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 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 ef-
forts, 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 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.


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
(4) $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.


AMENDMENTS


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.
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), “$3,000,000” for “$3,000,000” 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. (c). Pub. L. 95–619, § 691(b), substituted “Secretary” for “Administrator”.

1977—Subsec. (c)(2). Pub. L. 95–70, § 3(b), substituted “$2,500,000” for “$700,000”.

Subsec. (c)(3). Pub. L. 95–70, § 3(a), substituted “$1,800,000” for “$700,000”.

PART A—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 term “covered equipment” means 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) as follows:

(1) compressors;

(ii) fans;

(iii) blowers;

(iv) refrigeration equipment;

(v) electric lights;

(vi) electrolytic equipment;

(vii) electric arc equipment;

(viii) steam boilers;

(ix) ovens;

(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 units that are designed for commercial application.

(B) The term “large 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 “very 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—