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HOUSE OF REPRESENTATIVES

REPT. 110–304
Part 1

ENERGY EFFICIENCY IMPROVEMENT ACT OF 2007

AUGUST 3, 2007.—Ordered to be printed

Mr. DINGELL, from the Committee on Energy and Commerce, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3236]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3236) to promote greater energy efficiency, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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59–006

PURPOSE AND SUMMARY

The purpose of H.R. 3236 is to encourage greater energy efficiency throughout the U.S. economy. The bill sets forth standards and policies intended to use energy more efficiently to meet Americans' growing demand for goods and services. Separate subtitles focus on increasing the energy efficiency achieved by Americans in virtually all stationary energy applications: in appliances, in electric lighting, in new homes, in offices and commercial establishments, in Federal buildings, in industries, and in schools, hospitals, universities, and other public institutions.

By doing so, the legislation will both reduce our reliance on fossil fuels and reduce emissions of greenhouse gases and pollutants in a cost-effective manner. Thus the legislation helps mitigate environmental problems and limit the economic impact of higher energy costs, and represents an important step in addressing global climate change.

BACKGROUND AND NEED FOR LEGISLATION

The initial group of provisions in Subtitle A concern appliance efficiency. In Sections 101, 102, 103, 107, 114, and 115, the legislation adopts agreements reached between manufacturers concerned and appliance efficiency advocates. Enacting these directly into law avoids the need for long and potentially contentious Department of Energy (DOE) rulemaking processes that might not reach results with similar efficiency gains or an equal degree of consensus. A second group of provisions, including Sections 104, 105, 106, 108, 109, 110, and 111, shortens, clarifies, directs or simplifies the process by which the DOE sets such standards in rulemaking processes conducted pursuant to the Energy Policy and Conservation Act of 1975. The goal is to have DOE to set appliance efficiency standards on a timely basis, to gear those standards to appliance market realities, to complete its current and meritorious efforts to make up for a backlog of missed deadlines, and to avoid a recurrence of the many delays and failures to meet deadlines that have plagued the program since its inception.

Subtitle B contains provisions relating to lighting efficiency. Electric lights consume much of the nation's electricity output, but use that power with relatively poor efficiency. The light offered by a typical incandescent light bulb represents less than ten percent of the energy required to make the electricity consumed by that bulb. New technologies promise dramatic improvements in lighting efficiency, but face issues of how quickly they can be available and how fully and satisfactorily they can substitute for current inefficient lamps. The purpose of this subtitle is to accelerate progress toward more efficient lighting and provide Federal leadership and guidance. Two of the provisions of this subtitle—Sections 121 and 122—adopt consensus policy agreements achieved between lighting manufacturers and efficiency advocates to set forth standards that can be achieved on an agreed timeline. H.R. 3236 requires the Federal government to take a leading role in improving lighting efficiency in its own operations.

Subtitle C addresses the energy efficiency of residential buildings. This Nation's stock of existing buildings represents a large proportion of both energy consumption and greenhouse gas emis-

sions, consuming much of the national electricity and natural gas production for lighting, appliances, and space conditioning. It is much more cost-effective to construct a building with high energy efficiency than to retrofit it later to the same standards. Yet many new buildings are designed and built at standards for energy consumption much lower than would be cost-effective over their useful lives, perpetuating relatively poor energy performance. Building codes set minimum standards. They are typically established at State and local levels by a consensus process of builders and code officials that takes good account of safety and construction practices, but seldom reflects adequately the cost of energy to building occupants over time. This subtitle provides Federal incentives updating the energy-efficiency of State and local building codes, and sets goals for further improvements. It also requires DOE to establish cost-effective energy-efficiency standards for manufactured housing, provides for reauthorization of the Weatherization Assistance Program that supports improved energy efficiency of low-income housing, and expands that program to include energy efficiency practices beyond insulation.

Subtitle D requires the Federal government to assume leadership of a major effort to assure that the nation's stock of commercial buildings, including the Federal government's own thousands of buildings, will increasingly meet high standards as "Green" buildings and eventually achieve the higher goal of requiring zero net energy inputs from fossil fuel sources. Commercial and federal buildings are major users of energy, and at present few are being built to minimize energy use. New technologies and better awareness of updates in design, materials, fenestration, lighting, heating, cooling, and other building elements and systems can dramatically improve such buildings, both from the perspective of energy consumption and its impact on the environment and its occupants. Application of such techniques and technologies in the Federal sector can make Federal buildings a model for the private sector. Both can and should benefit from the efforts of non-profit groups to provide expert guidance and ratings to recognize the best practices and examples. The subtitle creates a Federal office of High-Performance Green Buildings, and commits that office to implement green building standards throughout the Federal government. The bill directs the new office to define and enter public-private partnerships with a consortium of stakeholder interests capable of achieving similar progress in the private sector, using public funds as leverage to encourage private investment. Each Federal agency must evaluate its own buildings for energy and water efficiency, implementing cost-effective measures. The purpose of this subsection is to populate the U.S. commercial and Federal sectors, over time, with high-performing and environmentally superior buildings that will increase energy efficiency while also offering a better interior environment to their occupants.

Subtitle D also authorizes DOE loan guarantees for projects that retrofit and renovate existing buildings to achieve high-performance green-building standards. Often older buildings are candidates for significant energy efficiency improvement, but their owners may not be able to finance such investment without credit assistance. This bill would allow DOE, in appropriate cir-

cumstances and with appropriate protections, to offer to guarantee loans required to make such renovations.

Subtitle E creates a program that will identify and recover wasted energy from industry and commerce in the United States, estimated to amount to between 60 and 90 gigawatts of recoverable electric power. The Environmental Protection Agency is directed to survey sources of energy that could be recovered cost effectively, qualifying such sources for incentives to encourage recovery. Incentives will include technical assistance, grants during initial years of production, and the ability to seek special conditions of sale from local utilities for any excess electric power produced, with appropriate regulatory approval. Such recovered energy could displace the need for more than 100 typical coal-fired power plants, produce power with no incremental fuel consumption or emissions of greenhouse gas, and do so in downstream locations that may reduce congestion on transmission systems. The purpose of this section is to identify and end ongoing waste of large amounts of energy throughout the economy where it can be captured and turned into electricity or useful thermal energy.

Subtitle F provides assistance to public institutions, including schools, hospitals, universities, and other public facilities, in overcoming a key obstacle to their ability to engage in energy-efficient investments: the lack of up-front capital. It does so by creating a revolving loan-fund from which such institutions may borrow to invest in energy efficiency, paying the loans back with savings over time. Many promising and financially-sound investments in capital-intensive district energy systems or combined heat and power systems have not been made for lack of initial capital, and the goal of this section is to overcome that barrier with, in the long run, no net outlay of Federal dollars.

Subtitle G is intended to provide significant improvements and greater scope to Energy Savings Performance Contracts, which allow Federal agencies to enter contracts that guarantee energy and cost savings, with the risks and investments made by their private contractor counterparties for a profit only assured if the savings meet levels promised to the Federal agency. Federal agencies share in the savings achieved by private investment under these contracts, and Federal capital is not at significant risk despite an attribution of direct spending that ignores such future savings streams.

Subtitle H is intended to respond to the need for financial counsel to DOE on ways to encourage greater private investment in energy efficiency. It creates an Advisory Committee on Energy Efficiency Financing. The failure of private actors to make energy efficiency investments that are cost-effective with short payback periods is an unfortunate reality, and may be overcome if the Department has a better awareness of financial drivers that motivate—or fail to motivate—such decisions. The purpose of the bill is to provide that awareness and assist DOE to communicate the financial realities and options that can promote energy efficiency throughout the economy.

Subtitle I creates an Energy Efficiency Block Grant Program to provide funds to support the efforts of local governments to exercise their own effective leadership in achieving energy efficiency objectives. Many of the best opportunities for reducing energy consump-

tion while achieving the same or greater benefits are found in the nation's cities, and local government can often demonstrate the awareness, the flexibility, and the policy precision to capture such opportunities more directly and effectively than broad national incentives or programs. Yet the resources to do so are often not available to local governments. In the same way that other national priorities have been addressed by making Federal resources available for local action, the national priority to achieve greater energy efficiency can be addressed in the same manner, and this bill does so. It would require localities first to present strategies for energy efficiency achievement, and then provide grants to carry out such strategies with a broad array of policy tools and program options.

HEARINGS

There was one oversight hearing and one legislative hearing held by the Subcommittee on Energy and Air Quality, Committee on Energy and Commerce, in connection with the bill reported by the Committee.

The Subcommittee on Energy and Air Quality held a hearing entitled, "Achieving—At Long Last—Appliance Efficiency Standards," on Tuesday, May 1, 2007. The Subcommittee received testimony from the following witnesses: The Honorable Alexander A. "Andy" Karsner, Assistant Secretary, Energy Efficiency and Renewable Energy, U.S. Department of Energy; The Honorable Arthur H. Rosenfeld, Ph.D., Commissioner, California Energy Commission; Mr. Evan Gaddis, President and CEO, National Electrical Manufacturers Association; C. David Myers, Vice President, Building Efficiency, Johnson Controls, Inc. (President, York International); Joseph M. McGuire, President, Association of Home Appliance Manufacturers; Mr. Douglas Johnson, Senior Director, Technology Policy & International Affairs, Consumer Electronics Association; Andrew deLaski, Executive Director, Appliance Standards Awareness Project; Charles Harak, Esq., National Consumer Law Center.

The Subcommittee on Energy and Air Quality held a legislative hearing on "Discussion Drafts concerning Energy Efficiency, Smart Electricity Grid, Energy Policy Act of 2005 Title XVII Loan Guarantees, and Standby Loans for Coal-to-Liquids Projects," on Thursday, May 24, 2007. The Subcommittee received testimony from the following witnesses: Mr. David Rogers, Deputy Assistant Secretary for Energy Efficiency, Department of Energy; Ms. Kateri Callahan, President, Alliance to Save Energy; Mr. Jay Birnbaum, Vice President and General Counsel, Current Group, LLC; Ms. Katharine A. Fredriksen, Principal Deputy Assistant Secretary for Policy and International Affairs, U.S. Department of Energy; Mr. Don Maley, Vice President, Leucadia International Corporation; and Dr. Daniel A. Lashof, Ph.D., Science Director, Climate Center, Natural Resources Defense Council.

SUBCOMMITTEE CONSIDERATION

Prior to the introduction of H.R. 3236, its text was considered by the Committee's Subcommittee on Energy and Air Quality as a Committee Print.

On Wednesday, June 20, 2007, the Subcommittee on Energy and Air Quality met in open markup session and considered the Com-

mittee Print to promote greater energy efficiency. The Committee Print was favorably forwarded to the full Committee, amended, by a recorded vote of 17–14. The Committee Print forwarded by the Subcommittee was subsequently designated Committee Print #1 for full Committee consideration.

COMMITTEE CONSIDERATION

On Wednesday, June 27, 2007, and Thursday, June 28, 2007, the full Committee met in open markup session and ordered the Committee Print favorably reported to the House, amended, by a recorded vote of 27–18. On July 31, 2007, a clean bill, H.R. 3236, was introduced with the approved language of the Committee Print, and was referred to the full Committee to be reported without further consideration.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. Mr. Dingell moved that the Committee report the Committee Print, amended, favorably to the House. The motion to report the Committee Print favorably to the House was agreed to by a recorded vote of 27 yeas and 18 nays. The following are the recorded votes taken on the motion and on amendments, including the names of those members voting for and against.

COMMITTEE ON ENERGY AND COMMERCE -- 110TH CONGRESS
ROLL CALL VOTE # 17

BILL: Committee Print # 1, to promote greater energy efficiency.

AMENDMENT: An amendment by Mr. Hastert, # 2, to amend Sec. 104 to require that the Secretary of Energy conduct a study on creating a regional standards program for heating and cooling products.

DISPOSITION: **NOT AGREED TO**, by a roll call vote of 22 yeas to 27 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Dingell		X		Mr. Barton	X		
Mr. Waxman				Mr. Hall			
Mr. Markey		X		Mr. Hastert	X		
Mr. Boucher		X		Mr. Upton	X		
Mr. Towns		X		Mr. Stearns	X		
Mr. Pallone				Mr. Deal	X		
Mr. Gordon		X		Mr. Whitfield			
Mr. Rush		X		Mrs. Cubin	X		
Ms. Eshoo		X		Mr. Shimkus	X		
Mr. Stupak		X		Mrs. Wilson	X		
Mr. Engel				Mr. Shadegg	X		
Mr. Wynn		X		Mr. Pickering	X		
Mr. Green				Mr. Fossella	X		
Ms. DeGette		X		Mr. Buyer	X		
Ms. Capps		X		Mr. Radanovich	X		
Mr. Doyle		X		Mr. Pitts	X		
Ms. Harman		X		Ms. Bono			
Mr. Allen		X		Mr. Walden	X		
Ms. Schakowsky		X		Mr. Terry	X		
Ms. Solis		X		Mr. Ferguson	X		
Mr. Gonzalez		X		Mr. Rogers	X		
Mr. Inslee		X		Mrs. Myrick	X		
Ms. Baldwin		X		Mr. Sullivan	X		
Mr. Ross		X		Mr. Murphy	X		
Ms. Hooley		X		Mr. Burgess			
Mr. Weiner		X		Ms. Blackburn	X		
Mr. Matheson		X					
Mr. Butterfield		X					
Mr. Melancon		X					
Mr. Barrow		X					
Mr. Hill		X					

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COMMITTEE ON ENERGY AND COMMERCE -- 110TH CONGRESS
ROLL CALL VOTE # 18

BILL: Committee Print # 1, to promote greater energy efficiency.

AMENDMENT: An amendment by Mr. Wynn, # 3, to insert at the end of the bill a new subtitle H to establish an Energy Efficiency Block Grant Program.

DISPOSITION: **AGREED TO**, by a roll call vote of 33 yeas to 23 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Dingell	X			Mr. Barton		X	
Mr. Waxman	X			Mr. Hall		X	
Mr. Markey	X			Mr. Hastert		X	
Mr. Boucher	X			Mr. Upton		X	
Mr. Towns	X			Mr. Stearns		X	
Mr. Pallone	X			Mr. Deal		X	
Mr. Gordon	X			Mr. Whitfield			
Mr. Rush	X			Mrs. Cubin		X	
Ms. Eshoo	X			Mr. Shimkus		X	
Mr. Stupak	X			Mrs. Wilson		X	
Mr. Engel	X			Mr. Shadegg		X	
Mr. Wynn	X			Mr. Pickering		X	
Mr. Green	X			Mr. Fossella	X		
Ms. DeGette	X			Mr. Buyer		X	
Ms. Capps	X			Mr. Radanovich		X	
Mr. Doyle	X			Mr. Pitts		X	
Ms. Harman	X			Ms. Bono		X	
Mr. Allen	X			Mr. Walden		X	
Ms. Schakowsky	X			Mr. Terry		X	
Ms. Solis	X			Mr. Ferguson	X		
Mr. Gonzalez	X			Mr. Rogers		X	
Mr. Inslee	X			Mrs. Myrick		X	
Ms. Baldwin	X			Mr. Sullivan		X	
Mr. Ross	X			Mr. Murphy		X	
Ms. Hooley	X			Mr. Burgess		X	
Mr. Weiner	X			Ms. Blackburn		X	
Mr. Matheson	X						
Mr. Butterfield	X						
Mr. Melancon	X						
Mr. Barrow	X						
Mr. Hill	X						

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COMMITTEE ON ENERGY AND COMMERCE -- 110TH CONGRESS
ROLL CALL VOTE # 19

BILL: Committee Print # 1, to promote greater energy efficiency.

AMENDMENT: An amendment by Mr. Barton, # 4, to strike sections 131, 132, and 143.

DISPOSITION: **NOT AGREED TO**, by a roll call vote of 22 yeas to 31 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Dingell		X		Mr. Barton	X		
Mr. Waxman		X		Mr. Hall	X		
Mr. Markey		X		Mr. Hastert	X		
Mr. Boucher		X		Mr. Upton	X		
Mr. Towns		X		Mr. Stearns	X		
Mr. Pallone		X		Mr. Deal	X		
Mr. Gordon		X		Mr. Whitfield			
Mr. Rush		X		Mrs. Cubin	X		
Ms. Eshoo		X		Mr. Shimkus	X		
Mr. Stupak		X		Mrs. Wilson	X		
Mr. Engel		X		Mr. Shadegg	X		
Mr. Wynn		X		Mr. Pickering	X		
Mr. Green		X		Mr. Fossella	X		
Ms. DeGette		X		Mr. Buyer	X		
Ms. Capps		X		Mr. Radanovich			
Mr. Doyle		X		Mr. Pitts	X		
Ms. Harman		X		Ms. Bono		X	
Mr. Allen		X		Mr. Walden			
Ms. Schakowsky		X		Mr. Terry	X		
Ms. Solis		X		Mr. Ferguson	X		
Mr. Gonzalez		X		Mr. Rogers	X		
Mr. Inslee				Mrs. Myrick	X		
Ms. Baldwin		X		Mr. Sullivan	X		
Mr. Ross		X		Mr. Murphy	X		
Ms. Hooley		X		Mr. Burgess	X		
Mr. Weiner		X		Ms. Blackburn	X		
Mr. Matheson		X					
Mr. Butterfield		X					
Mr. Melancon		X					
Mr. Barrow		X					
Mr. Hill		X					

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COMMITTEE ON ENERGY AND COMMERCE -- 110TH CONGRESS
ROLL CALL VOTE # 20

BILL: Committee Print # 1, to promote greater energy efficiency.

AMENDMENT: An amendment by Mr. Buyer, # 8, to strike section 132.

DISPOSITION: **NOT AGREED TO**, by a roll call vote of 20 yeas to 30 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Dingell		X		Mr. Barton	X		
Mr. Waxman		X		Mr. Hall	X		
Mr. Markey		X		Mr. Hastert	X		
Mr. Boucher		X		Mr. Upton	X		
Mr. Towns				Mr. Stearns			
Mr. Pallone		X		Mr. Deal	X		
Mr. Gordon		X		Mr. Whitfield	X		
Mr. Rush		X		Mrs. Cubin			
Ms. Eshoo		X		Mr. Shimkus	X		
Mr. Stupak		X		Mrs. Wilson			
Mr. Engel		X		Mr. Shadegg			
Mr. Wynn		X		Mr. Pickering	X		
Mr. Green		X		Mr. Fossella	X		
Ms. DeGette		X		Mr. Buyer	X		
Ms. Capps		X		Mr. Radanovich	X		
Mr. Doyle		X		Mr. Pitts			
Ms. Harman		X		Ms. Bono	X		
Mr. Allen		X		Mr. Walden			
Ms. Schakowsky		X		Mr. Terry	X		
Ms. Solis		X		Mr. Ferguson	X		
Mr. Gonzalez		X		Mr. Rogers	X		
Mr. Inslee		X		Mrs. Myrick	X		
Ms. Baldwin		X		Mr. Sullivan	X		
Mr. Ross		X		Mr. Murphy	X		
Ms. Hooley		X		Mr. Burgess	X		
Mr. Weiner		X		Ms. Blackburn	X		
Mr. Matheson		X					
Mr. Butterfield		X					
Mr. Melancon		X					
Mr. Barrow		X					
Mr. Hill		X					

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COMMITTEE ON ENERGY AND COMMERCE -- 110TH CONGRESS
ROLL CALL VOTE # 21

BILL: Committee Print # 1, to promote greater energy efficiency.

AMENDMENT: An amendment by Mrs. Wilson, # 11, to insert at the end of subtitle B a new section 124 to establish Bright Tomorrow Lighting Prizes for solid state lighting.

DISPOSITION: **NOT AGREED TO**, by a roll call vote of 17 yeas to 28 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Dingell		X		Mr. Barton	X		
Mr. Waxman		X		Mr. Hall	X		
Mr. Markey		X		Mr. Hastert	X		
Mr. Boucher		X		Mr. Upton			
Mr. Towns		X		Mr. Stearns			
Mr. Pallone		X		Mr. Deal	X		
Mr. Gordon		X		Mr. Whitfield	X		
Mr. Rush		X		Mrs. Cubin			
Ms. Eshoo		X		Mr. Shimkus	X		
Mr. Stupak		X		Mrs. Wilson	X		
Mr. Engel		X		Mr. Shadegg			
Mr. Wynn		X		Mr. Pickering	X		
Mr. Green		X		Mr. Fossella	X		
Ms. DeGette		X		Mr. Buyer			
Ms. Capps		X		Mr. Radanovich	X		
Mr. Doyle		X		Mr. Pitts	X		
Ms. Harman		X		Ms. Bono			
Mr. Allen		X		Mr. Walden	X		
Ms. Schakowsky		X		Mr. Terry			
Ms. Solis				Mr. Ferguson			
Mr. Gonzalez		X		Mr. Rogers	X		
Mr. Inslee		X		Mrs. Myrick			
Ms. Baldwin		X		Mr. Sullivan	X		
Mr. Ross		X		Mr. Murphy	X		
Ms. Hooley		X		Mr. Burgess	X		
Mr. Weiner		X		Ms. Blackburn	X		
Mr. Matheson							
Mr. Butterfield		X					
Mr. Melancon							
Mr. Barrow		X					
Mr. Hill		X					

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COMMITTEE ON ENERGY AND COMMERCE -- 110TH CONGRESS
ROLL CALL VOTE # 22

BILL: Committee Print # 1, to promote greater energy efficiency.

MOTION: A motion by Mr. Dingell to order Committee Print # 1 reported favorably to the House, amended.

DISPOSITION: **AGREED TO**, by a roll call vote of 27 yeas to 18 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Dingell	X			Mr. Barton		X	
Mr. Waxman				Mr. Hall		X	
Mr. Markey	X			Mr. Hastert		X	
Mr. Boucher	X			Mr. Upton		X	
Mr. Towns	X			Mr. Stearns			
Mr. Pallone	X			Mr. Deal		X	
Mr. Gordon				Mr. Whitfield		X	
Mr. Rush	X			Mrs. Cubin			
Ms. Eshoo				Mr. Shimkus		X	
Mr. Stupak	X			Mrs. Wilson		X	
Mr. Engel	X			Mr. Shadegg		X	
Mr. Wynn	X			Mr. Pickering			
Mr. Green	X			Mr. Fossella		X	
Ms. DeGette	X			Mr. Buyer		X	
Ms. Capps	X			Mr. Radanovich			
Mr. Doyle	X			Mr. Pitts		X	
Ms. Harman				Ms. Bono			
Mr. Allen	X			Mr. Walden		X	
Ms. Schakowsky	X			Mr. Terry		X	
Ms. Solis	X			Mr. Ferguson			
Mr. Gonzalez	X			Mr. Rogers			
Mr. Inslee	X			Mrs. Myrick			
Ms. Baldwin	X			Mr. Sullivan		X	
Mr. Ross	X			Mr. Murphy		X	
Ms. Hooley	X			Mr. Burgess		X	
Mr. Weiner	X			Ms. Blackburn		X	
Mr. Matheson	X						
Mr. Butterfield	X						
Mr. Melancon	X						
Mr. Barrow	X						
Mr. Hill	X						

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COMMITTEE OVERSIGHT FINDINGS

Regarding clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the oversight findings of the Committee on the bill are reflected in this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goals and objectives of H.R. 3236 are to improve the energy efficiency of appliances, lights, residential buildings, commercial and federal buildings, industrial facilities, public institutions, and the Federal government by various means, including setting efficiency standards, improving the process by which the Department of Energy sets efficiency standards, and updating building efficiency codes that States must consider.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Regarding compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3236 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

EARMARKS AND TAX AND TARIFF BENEFITS

Regarding compliance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 3236 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

COMMITTEE COST ESTIMATE

The Committee will adopt as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Regarding clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, a cost estimate on H.R. 3236 by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available as of the time of the filing of this report by the Committee.

FEDERAL MANDATES STATEMENT

The Committee will adopt as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

Regarding section 5(b) of the Federal Advisory Committee Act, section 189 of the bill requires the establishment of an advisory committee. The Committee finds that establishing the advisory committee is the most efficient way of carrying out the policies involved.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes, and in the provisions of Article I, section 8, clause 1, that relate to expending funds to provide for the general welfare of the United States.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

SUBTITLE A: APPLIANCE EFFICIENCY

Section 101. Energy Standards for Home Appliances.—Adopts a consensus agreement developed by manufacturers and appliance efficiency advocates which sets new appliance efficiency standards for residential clothes washers, dishwashers, and dehumidifiers, and mandates updated standards by certain dates for refrigerators, refrigerator-freezers, and freezers.

Section 102. Electric Motor Efficiency Standards.—Adopts a consensus agreement developed by manufacturers and energy efficiency advocates which sets new energy efficiency standards for stationary general and special purpose electric motors.

Section 103. Residential Boilers.—Adopts a consensus agreement developed by manufacturers and energy efficiency advocates which sets new energy efficiency standards for residential boilers.

Section 104. Regional Variation in Heating or Cooling Standards.—Authorizes the Department of Energy (DOE) to establish, after a detailed study of costs and benefits involving all stakeholders, up to three regional variations in energy efficiency appliance standards for non-portable heating or air-conditioning products and requires labeling. Any such regional standards are to be enforced pursuant to Sections 333 through 335 of the Energy Policy and Conservation Act.

Section 105. Procedure for Prescribing New or Amended Standards.—Repeals Section 325(p)(1) of the Energy Policy and Conservation Act (EPCA), which requires an advanced rulemaking process prior to a proposed rulemaking process.

Section 106. Expediting Appliance Standard Rulemakings.—Allows the DOE to move expeditiously to a final rule when stakeholders submit a consensus position regarding new appliance efficiency standards.

Section 107. Correction of Large Air Conditioning Rule Issuance Constraint.—Corrects misinterpretation of the Energy Policy Act of 2005 (EPACT), which blocked implementation of final rules adopted by DOE on commercial package air-conditioning equipment, and adopts new appliance efficiency standards based on such final rules.

Section 108. Definition of Energy Conservation Standard.—Provides that DOE may set more than one performance standard to prescribe minimum energy efficiency or maximum energy use for covered products (and may of course accept more than one as part of a consensus agreement), with separate provisions regarding covered products that use or handle water to allow standards that cover both water and energy where appropriate.

Section 109. Providing Regular Schedule for Standards Updating, Progress Reports, and Supporting Judicial Discipline for Process.—Requires that DOE review appliance efficiency standards by 6 years after their establishment and propose new standards if warranted based on technical and economic factors. Sets a 2-year deadline for finalization of new standards. Where DOE determines new standards are not warranted, it must revisit that determination after three years. Requires DOE every six months to report its progress in keeping on schedule to establish new appliance efficiency standards and to report any delays or missed deadlines, sending such reports directly to relevant Congressional Committees, and also to the court and parties involved in an operative consent decree under which DOE is presently making up prior failures to meet such deadlines.

Section 110. Updating Appliance Test Procedures.—Requires review of all appliance test procedures every seven years.

Section 111. Furnace Fan Standard Process.—Requires DOE to complete a furnace fan rulemaking by July 1, 2013, that was permitted but not required in the Energy Policy Act of 2005 (EPACT 2005).

Section 112. Technical Corrections.—Makes technical corrections to related provisions of EPACT 2005.

Section 113. Energy efficient standby power devices.—Requires Federal agencies that purchase and utilize appliances which include external and certain internal standby power devices, to purchase only such products that use not more than 1 watt in the standby mode, or the lowest wattage available for such a product, except where impracticable or where the performance of the product might thereby be compromised.

Section 114. External Power Supply Efficiency Standards.—Adopts consensus appliance efficiency standards for external power-supply devices. These are small external transformers or chargers that have an output of less than 250 watts and connect through separate plugs and wires to provide power to separate electronic or electric equipment. Such power-supply devices are intended to be covered even though they may support individual electric and electronic products that are not covered by Federal standards. The bill requires reviews by DOE in 2011 and 2015 of such standards, with any updated standards effective 2 years thereafter.

Section 115. Standby Mode.—Establishes standard that no covered consumer or industrial appliance, when in standby mode, shall operate with more than 1 watt of electric power, unless infeasible or an exception is warranted for medical or defense reasons. Provides for testing of appliances to measure power consumption in standby mode.

SUBTITLE B: LIGHTING EFFICIENCY

Section 121. Efficient Light Bulbs.—Adopts consensus agreement among manufacturers and efficiency advocates for general service lamps prohibiting 100-watt incandescent bulbs emitting less than 60 lumens per watt in 2012 and thereafter, and sets a schedule by which general service electric lamps sold must meet stated minimum energy efficiency improvement targets. Provides exemptions for special purpose lamps and conditional exceptions for other designated lamps. Provides for incentives, public education, labeling and sales data tracking system. Authorizes DOE to establish civil penalties for failure to comply.

Section 122. Incandescent Reflector Lamps.—Adopts a consensus agreement between manufacturers and efficiency advocates setting minimum energy efficiency standards for incandescent reflector lamps and certain fluorescent lamps.

Section 123. Use of Energy Efficient Lighting Fixtures and Bulbs.—Requires the Federal government to substitute energy-efficient lighting for incandescent bulbs wherever feasible.

SUBTITLE C: RESIDENTIAL BUILDING EFFICIENCY

Section 131. Encouraging Stronger Building Codes.—Requires DOE to update the model building codes for minimum energy efficiency that State and local agencies must consider, with goal of 30 percent improvement in 2010 and 50 percent improvement by 2020 relative to current base codes. Provides incentive funding and code-inspector training to enable compliance by States or localities.

Section 132. Energy Code Improvements Applicable to Manufactured Housing.—Requires manufactured housing to meet updated energy efficiency codes unless it is not cost effective to do so. Provides for civil penalties if requirements are not met.

Section 133. Baseline Building Designs.—Allows States to premise energy budgets in building codes on use of appliances with energy efficiency greater than the Federal minimum standards.

Section 134. Reauthorization of Weatherization Assistance Program.—Provides increased funding through 2012 for weatherization assistance in low-income housing, and authorizes Secretary to conduct pilot programs of alternate means of decreasing energy consumption for heating and cooling. Authorizes grants to weatherization agencies to expand program to include other energy benefits of not more than 2 percent of appropriated funding when funding exceeds $275 million in each fiscal year.

SUBTITLE D: COMMERCIAL AND FEDERAL BUILDING EFFICIENCY

Section 141. Definitions.—Defines, among other terms, "high-performance green building," "life-cycle" costs and assessments, and "zero-net-energy building."

Section 142. High-Performance Green Buildings.—Establishes an Office of High-Performance Green Buildings in DOE (within the Office of Energy Efficiency and Renewable Energy), appoints a Director, and assigns duties related to high performance green buildings. The Director coordinates green building activities within the Federal government and creates and enters public-private partnerships to leverage private investments to achieve green building objectives. Establishes at least one Green Building Partnership Con-

sortium of experts and stakeholders to participate in such partnerships with Federal green building efforts.

Section 143. Zero-Net-Energy Commercial Buildings Goal.—Provides for review and adoption of a national goal to reduce commercial building energy use and achieve commercial buildings that, through efficiency and use of renewable energy, eliminate net use of fossil fuels. Sets a goal that this standard will be met by all new commercial buildings built after 2025, by 50 percent of existing commercial buildings by 2035 (through retrofit technology), and by all commercial buildings by 2050. Provides for various DOE initiatives, including pilot projects.

Section 144. Public Outreach.—Provides for a public outreach effort to provide information on green buildings, including ratings, rating services, technical assistance and measurement tools.

Section 145. Budget and Life-Cycle Costing and Contracting.—Requires the Director of the new office to develop and implement life-cycle budgeting and costing methodologies and tools for green buildings.

Section 146. Incentives.—Requires the Director of the new office to identify and implement incentives through recognition awards and to allow agencies to retain savings achieved through green building practices.

Section 147. Federal Procurement.—Requires the Director of the Office of Federal Procurement to modify procurement guidelines to employ green building materials and technologies and reduce environmental impacts.

Section 148. Use of Energy and Water Efficiency Measures in Federal Buildings.—Requires Federal agencies to identify for each building the energy and water saving measures that could be undertaken (with 12–year-or-shorter paybacks), and within three years to implement and publicize such measures on the Internet and to develop a benchmarking system by which each agency's success will be scored. Requires use of highly energy-efficient water heating equipment in Federal buildings.

Section 149. Demonstration Project.—Requires five demonstration projects of green building technology at Federal facilities and four at universities in different regions of the U.S.

Section 150. Energy Efficiency for Data Center Buildings.—Creates an Environmental Protection Agency (EPA) program to assist in achieving greater efficiency in buildings housing data centers and server farms.

Section 151. Authorization of Appropriations.—Authorizes funding for the actions required by this subtitle.

Section 152. Study and Report on Use of Power Management Software.—Requires DOE and other Federal entities to study the use of software that reduces electricity use by computers and monitors when not in active use.

SUBTITLE E: INDUSTRIAL ENERGY

Section 161.—Amends Energy Conservation and Policy Act (ECPA) to add three new sections:

(1) Survey of Waste Industrial Energy Recovery and Potential Use.—Requires EPA to survey waste industrial energy recovery and potential use, and to create a registry of sites with economically feasible waste energy recovery, disqualifying any with use of

thermal energy that would not be separately justifiable, or that fail to demonstrate a reasonable and efficient balance between useful thermal and electric energy output.

(2) Incentives for Recovery, Utilization and Prevention of Industrial Waste Energy.—Provides grants to support waste energy recovery and supports access to market for any excess power generated from waste energy, requiring consideration of alternate regulatory structures to allow such market access.

(3) Clean Energy Application Centers.—Strengthens and renames existing Combined Heat and Power (CHP) Application Centers to provide expert resources on energy efficiency, CHP, waste energy recovery, and energy-efficient materials usage, working directly with affected industries. Relocates the Centers to the Office of Energy Efficiency and Renewable Energy at DOE.

SUBTITLE F: ENERGY EFFICIENCY OF PUBLIC INSTITUTIONS

Sections 171–175. Energy Efficiency in Public Institutions.—Promotes CHP and district energy systems in public institutions and public school districts, and provides funding to help meet initial capital costs through Federal revolving fund loans.

Section 176. State Energy Program Reauthorization.—Provides funding through 2012.

SUBTITLE G: ENERGY SAVINGS PERFORMANCE CONTRACTING

Section 181. Definition of Energy Savings.—Revises definition to include renewable energy, cogeneration, and ability to sell power in Energy Savings Performance Contracts (ESPCs).

Section 182. Financing Flexibility.—Allows use of appropriated funds as necessary and appropriate in ESPCs along with contractor funds.

Section 183. Authority to Enter Contracts and Reports.—Provides authority to enter contracts and replaces current Congressional notification requirement with an annual Federal Energy Management Program (FEMP) report detailing the termination penalty exposure of all current projects.

Section 184. Permanent reauthorization.—Eliminates sunset provision of ESPC program authorization.

Section 185. Training Federal Contracting Officers to Negotiate Energy Efficiency Contracts.—Requires the Federal Energy Management Program in DOE to train contract officers from various Federal agencies in energy-efficiency contracting practices.

Section 186. Promoting Long-Term Energy Savings Performance Contracts and Verifying Savings.—Assures that ESPCs are not limited to less than 25 years and that the savings are measured and verified.

SUBTITLE H: ADVISORY COMMITTEE ON ENERGY EFFICIENCY FINANCING

Section 189. Advisory Committee.—Creates an expert committee to advise the Department of Energy on ways of lowering costs and increasing investments in energy efficiency.

SUBTITLE I—ENERGY EFFICIENCY BLOCK GRANT PROGRAM

Sections 191–193. Definitions, Establishment, and Allocations.—Defines eligible cities and counties to receive grants under the program, creates the Energy Efficiency Block Grant Program, and allocates funds 70 percent to local governments and 30 percent to States.

Sections 194–195. Eligible Activities and Requirements.—Provides that creation of energy efficiency strategies, goals, studies, audits, weatherization programs, loan funds, non-profit organization grants, design, education programs, code inspection, zoning, and other programs are among eligible activities by local governments to be supported with grants made under the program. Requires that local governments first create strategy subject to prior approval and that State and Local Advisory Committee be created to guide the program.

Section 196. Review and Evaluation.—Authorizes DOE to review and evaluate grant recipients and deny funding for failure to comply with DOE guidelines or the recipient's strategy.

Section 197. Technical Assistance and Education Program.—Requires DOE to provide technical assistance and education to State and local governments to spread awareness of opportunities for energy efficiency.

Section 198. Authorizations.—Authorizes funding for grants and administration of the program.

SUBTITLE J—GREEN BUILDINGS RETROFIT LOAN GUARANTEES

Section 199. Green Buildings Retrofit Loan Guarantees.—Establishes a federal loan guarantee program under which the Director of the Office of High Performance Green Buildings would guarantee loans to cover up to 80 percent of the costs to retrofit and renovate existing buildings to meet green building standards.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ENERGY POLICY AND CONSERVATION ACT

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TITLE III—IMPROVING ENERGY EFFICIENCY

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

DEFINITIONS

SEC. 321. For purposes of this part:

(1) * * *

* * * * * * *

[(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 323; or

[(B) a design requirement for the products specified in paragraphs (6), (7), (8), (10), (15), (16), (17), and (19) of section 322(a); and

includes any other requirements which the Secretary may prescribe under section 325(r).]

(6) ENERGY CONSERVATION STANDARD.—

(A) IN GENERAL.—The term "energy conservation standard" means 1 or more performance standards that—

(i) for covered products (excluding clothes washers, dishwashers, showerheads, faucets, water closets, and urinals), prescribe a minimum level of energy efficiency or a maximum quantity of energy use, determined in accordance with test procedures prescribed under section 323;

(ii) for showerheads, faucets, water closets, and urinals, prescribe a minimum level of water efficiency or a maximum quantity of water use, determined in accordance with test procedures prescribed under section 323; and

(iii) for clothes washers and dishwashers—

(I) prescribe a minimum level of energy efficiency or a maximum quantity of energy use, determined in accordance with test procedures prescribed under section 323; and

(II) may include a minimum level of water efficiency or a maximum quantity of water use, determined in accordance with those test procedures.

(B) INCLUSIONS.—The term "energy conservation standard" includes—

(i) 1 or more design requirements, if the requirements were established—

(I) on or before the date of enactment of this subclause; or

(II) as part of a consensus agreement under section 325(p)(5); and

(ii) any other requirements that the Secretary may prescribe under section 325(r).

(C) EXCLUSION.—The term "energy conservation standard" does not include a performance standard for a component of a finished covered product, unless regulation of the component is authorized or established pursuant to this title.

* * * * * * *

(30)(A) * * *

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(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) * * *

(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, **[**or similar bulb shapes (excluding ER or BR)**]** *ER, BR, BPAR, or similar bulb shapes* with E26 medium screw bases, a rated voltage or voltage range that lies at least partially within 115 and 130 volts, a diameter which exceeds **[**2.75**]** *2.25* inches, and **[**is either—

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

[(II) a high(er) wattage reflector lamp which has a rated wattage above 205 watts.**]** *has a rated wattage that is greater than 40 watts.*

* * * * * * *

(36)*(A)* 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) 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 one AC or DC output voltage at a time;

(iii) is sold with, or intended to be used with, a separate end-use product that constitutes the primary load;

(iv) is contained in a separate physical enclosure from the end-use product;

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

(vi) has nameplate output power less than or equal to 250 watts.

(C) 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, as described under section 513 of the Food, Drug, and Cosmetic Act of 1938; 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) 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.

(E) 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.

* * * * * * *

(52) The term "detachable battery" means a battery that is contained in a separate enclosure from the product and is intended to be removed or disconnected from the product for recharging.

(53) 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.

(54)(A) 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 the date of enactment of this paragraph); 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.

(B) The term "BR30" refers to a BR incandescent reflector lamp with a diameter of 30/8ths of an inch and the term "BR40" refers to a BR incandescent reflector lamp with a diameter of 40/8ths of an inch.

(55)(A) 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 the date of enactment of this paragraph); 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 the date of enactment of this paragraph).

(B) The term "ER30" refers to an ER incandescent reflector lamp with a diameter of 30/8ths of an inch and the term "ER40" refers to an ER incandescent reflector lamp with a diameter of 40/8ths of an inch.

(56) 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.

* * * * * * *

TEST PROCEDURES

SEC. 323. (a) * * *

(b) AMENDED AND NEW PROCEDURES.—(1)(A) [The Secretary may amend test procedures with respect to any covered product if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of paragraph (3)] *At least every 7 years the Secretary shall review test procedures for all covered products and shall—*

(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.

* * * * * * *

(17) Test procedures for class A external power supplies shall be based upon the U.S. Environmental Protection Agency's "Test Method for Calculating the Energy Efficiency of Single-Voltage External AC-DC and AC-AC Power Supplies", August 11, 2004, provided that the test voltage specified in section 4(d) of such test method shall be only 115 volts, 60 Hz.

(18) Not later than July 1, 2009, the Secretary shall issue a final rule establishing test procedures for standby power consumption for all covered products, except for products for which the current test procedure already measures standby power consumption.

* * * * * * *

ENERGY STAR PROGRAM

SEC. 324A. (a) * * *

* * * * * * *

(d) DEADLINES.—The Secretary shall establish new qualifying levels—

(1) * * *

(2) not later than January 1, 2008, for clothes washers, effective beginning [January 1, 2010] *July 1, 2009*.

ENERGY CONSERVATION STANDARDS

SEC. 325. (a) * * *

(b) STANDARDS FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS.—(1) * * *

* * * * * * *

(4) 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. Such rule shall contain such amendment, if any.

* * * * * * *

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

(i) * * *

* * * * * * *

(3) BOILERS.—

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

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

(B) AUTOMATIC MEANS FOR ADJUSTING WATER TEMPERATURE.—

(i) IN GENERAL.—The manufacturer shall equip each gas, oil and electric hot water boiler, except boilers equipped with tankless domestic water heating coils, 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 one input rate this requirement may be satisfied by providing an automatic means that allows the burner or heating element to fire only when such 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 clause (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.

[(3)] *(4)*(A) * * *

* * * * * * *

(D) Notwithstanding any other provision of this Act, if the requirements of subsection (o) are met, the Secretary [may] *shall* consider and prescribe energy conservation standards or energy use standards for electricity used for purposes of circulating air through duct work *not later than July 1, 2013*.

(g) STANDARDS FOR DISHWASHERS; CLOTHES WASHERS; CLOTHES DRYERS, FLUORESCENT LAMP BALLASTS.—(1) * * *

* * * * * * *

(9) Clotheswashers manufactured on or after January 1, 2011, shall have—

(A) a Modified Energy Factor of at least 1.26; and

(B) a water factor of not more than 9.5.

(10) No later than December 31, 2011, the Secretary shall publish a final rule determining whether to amend the standards in effect for clotheswashers manufactured on or after January 1, 2015. Such rule shall contain such amendment, if any.

(11) Dishwashers manufactured on or after January 1, 2010, shall—

(A) for standard size dishwashers not exceed 355 kwh/year and 6.5 gallon per cycle; and

(B) for compact size dishwashers not exceed 260 kwh/year and 4.5 gallons per cycle.

(12) No later than January 1, 2015, the Secretary shall publish a final rule determining whether to amend the standards for dishwashers manufactured on or after January 1, 2018. Such rule shall contain such amendment, if any.

* * * * * * *

(i) GENERAL SERVICE FLUORESCENT LAMPS AND INCANDESCENT REFLECTOR LAMPS.—[(1)(A) Each of the following general service fluorescent lamps and incandescent reflector lamps manufactured after the effective date specified in the tables listed in this paragraph shall meet or exceed the following lamp efficacy and CRI standards:

[FLUORESCENT LAMPS

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

[INCANDESCENT REFLECTOR LAMPS

Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Effective Date (Months)
40–50	10.5	36
51–66	11.0	36

[INCANDESCENT REFLECTOR LAMPS—Continued

Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Effective Date (Months)
67–85	12.5	36
86–115	14.0	36
116–155	14.5	36
156–205	15.0	36

[(B) For the purposes of the tables set forth in subparagraph (A), the term "effective date" means the last day of the month set forth in the table which follows the date of the enactment of the Energy Policy Act of 1992.]

(1) STANDARDS.—

(A) DEFINITION OF EFFECTIVE DATE.—In this paragraph, except as specified in subparagraphs (C) and (D), the term "effective date" means, with respect to each type of lamp specified in a table contained in subparagraph (B), the last day of the period of months corresponding to that type of lamp, as specified in the table, that follows the date of enactment of the [short title].

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

FLUORESCENT LAMPS

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

INCANDESCENT REFLECTOR LAMPS

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

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

(i) Lamps rated at 50 watts or less of the following types: ER30, BR30, BR40, and ER40 lamps.

(ii) Lamps rated at 65 watts of the following types: BR30, BR40, and ER40 lamps.

(iii) R20 incandescent reflector lamps of 45 watts or less.

(D) EFFECTIVE DATES.—

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

(ii) LAMPS BETWEEN 2.25–2.75 INCHES IN DIAMETER.—The standards specified in subparagraph (B) shall apply with respect to incandescent reflector lamps with a diameter of more than 2.25 inches, but not more than 2.75 inches, on and after January 1, 2008.

* * * * * * *

[(m) FURTHER RULEMAKING.—After issuance of the last final rules required under subsections (b) through (i) of this section, the Secretary may publish final rules to determine whether standards for a covered product should be amended. 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 made 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, 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.**]**

(m) FURTHER RULEMAKING.—(1) 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 either—

(A) a notice of the Secretary's determination that standards for that product do not need to be amended, based on the criteria in subsection (n)(2); or

(B) a notice of proposed rulemaking including new proposed standards based on the criteria in subsection (o) and the procedures in subsection (p).

In either case, the Secretary shall also publish a notice stating that the Department's analysis is publicly available, and provide opportunity for written comment.

(2) 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. Not later than 3 years after a determination under paragraph (1)(A), the Secretary shall make a new determination and publication under paragraph (1)(A) or (B).

(3) An amendment prescribed under this subsection shall apply to products manufactured after a date which is 3 years after publication of the final rule establishing a standard, except that a manufacturer shall not be required to apply new standards to a product with respect to which other new standards have been required within the prior 6 years.

(4) 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 set forth in 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.

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(o) CRITERIA FOR PRESCRIBING NEW OR AMENDED STANDARDS.—(1) * * *

* * * * * * *

(6)(A) The Secretary may establish regional standards for space heating and air conditioning products, other than window-unit air-conditioners and portable space heaters. For each space heating and air conditioning product, the Secretary may establish a national minimum standard and two more stringent regional standards for regions determined to have significantly differing climatic conditions. Any standards set for any such region shall achieve the maximum level of energy savings that are technically feasible and economically justified within that region. As a preliminary step to determining the economic justifiability of establishing any such regional standard, the Secretary shall conduct a study involving stakeholders, including but not limited to a representative from the National Institute of Standards and Technology; representatives of nongovernmental advocacy organizations; representatives of product manufacturers, distributors, and installers; representatives of the gas and electric utility industries; and such other individuals as the Secretary may designate. Such study shall determine the potential benefits and consequences of prescribing regional standards for heating and cooling products, and may, if favorable to such standards, constitute the evidence of economic justifiability required under this Act. Regional boundaries shall follow State borders and only include contiguous States (except Alaska and Hawaii), except that on the request of a State, the Secretary may divide that State to include a part of that State in each of two regions.

(B) If the Secretary establishes regional standards, it shall be unlawful under section 332 to offer for sale at retail, sell at retail, or install noncomplying products except within the specified regions.

(C)(i) Except as provided in clause (ii), no product manufactured to a regional standard established pursuant to subparagraph (A) shall be distributed in commerce without a prominent label affixed to the product which includes at the top of the label, in print of not less than 14-point type, the following: "It is a violation of Federal law for this product to be installed in any State outside the region shaded on the map printed on this label.". Below this notice shall appear a map of the United States with clearly defined State

boundaries and names, and with all States in which the product meets or exceeds the standard established pursuant to subparagraph (A) shaded in a color or a manner as to be easily visible without obscuring the State boundaries and names. Below the map shall be printed on each label the following: "It is a violation of Federal law for this label to be removed, except by the owner and legal resident of any single-family home in which this product is installed.

(ii) A product manufactured that meets or exceeds all regional standards established under this paragraph shall bear a prominent label affixed to the product which includes at the top of the label, in print of not less than 14-point type the following: "This product has achieved an energy efficiency rating under Federal law allowing its installation in any State.

(D) Manufacturers of space heating and air conditioning equipment subject to regional standards established under this paragraph shall obtain and retain records on the intended installation locations of the equipment sold, and shall make such records available to the Secretary on request.

(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) The Secretary—

[(A) shall publish an advance notice of proposed rulemaking which specifies the type (or class) of covered products to which the rule may apply;

[(B) shall invite interested persons to submit, within 60 days after the date of publication of such advance notice, written presentations of data, views, and arguments in response to such notice; and

[(C) may identify proposed or amended standards that may be prescribed.]

[(2)] *(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.

[(3)] *(2)* After the publication of such proposed rulemaking, the Secretary shall, in accordance with section 336, 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 presentations, as provided in such section) on matters relating to such proposed rule, including—

(A) * * *

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[(4)] *(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 pub-

lished as soon as is practicable, but not less than 90 days, after publication of the proposed rule in the Federal Register.

(4) If manufacturers of any type (or class) of covered products or covered equipment, States, and efficiency advocates, or persons determined by the Secretary to fully represent such parties, submit to the Secretary a joint recommendation of an energy or water conservation standard and the Secretary determines that the recommended standard complies with subsection (o) or section 342(a)(6)(B), as applicable, to that type (or class) of covered products or covered equipment to which the standard would apply, the Secretary may then issue a direct final rule including the standard recommended. If the Secretary determines that a direct final rule cannot be issued based on such a submitted joint recommendation, the Secretary shall publish a determination with an explanation as to why the joint recommendation does not comply with this paragraph. For purposes of this paragraph, the term "direct final rule" means a final rule published the same day with a parallel notice of proposed rulemaking that proposes a new or amended energy or water conservation standard that is identical to the standard set forth in the final rule. There shall be a 110-day period for public comment with respect to the direct final rule. Not later than 10 days after the expiration of such 110-day period, the Secretary shall publish a notice responding to comments received with respect to the direct final rule. The Secretary shall withdraw a direct final rule promulgated pursuant to this paragraph within 120 days after publication in the Federal Register if the Secretary receives, with respect to the direct final rule, one or more adverse public comments or any alternate joint recommendation and, based on the rulemaking record, the Secretary determines that such adverse comments or alternate joint recommendation may provide a reasonable basis for withdrawing the direct final rule under subsection (o), section 342(a)(6)(B), or any applicable law. In such a case, the Secretary shall then proceed with the parallel notice of proposed rulemaking, and shall identify in a notice published in the Federal Register the reasons for the withdrawal of the direct final rule. A direct final rule that is withdrawn in accordance with this paragraph shall not be considered final for purposes of subsection (o)(1) of this section. No person shall be found in violation of this part for noncompliance with a direct final rule that is withdrawn under this paragraph, if that person has complied with the applicable standard in effect under this part immediately prior to issuance of that direct final rule.

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(u) BATTERY CHARGER AND EXTERNAL POWER SUPPLY ELECTRIC ENERGY CONSUMPTION.—(1) * * *

[(2) In determining under section 323 whether test procedures and energy conservation standards under this section should be revised with respect to covered products that are major sources of standby mode energy consumption, the Secretary shall consider whether to incorporate standby mode into the test procedures and energy conservation standards, taking into account standby mode power consumption compared to overall product energy consumption.**]**

[(3)**]** *(2)* The Secretary shall not propose an energy conservation standard under this section, unless the Secretary has issued applicable test procedures for each product under section 323.

[(4)**]** *(3)* Any energy conservation standard issued under this subsection shall be applicable to products manufactured or imported beginning on the date that is 3 years after the date of issuance.

[(5)**]** *(4)* The Secretary and the Administrator shall collaborate and develop programs (including programs under section 324A and other voluntary industry agreements or codes of conduct) that are designed to reduce standby mode energy use.

(5) EFFICIENCY STANDARDS FOR CLASS A EXTERNAL POWER SUPPLIES.—

(A) Class A external power supplies manufactured on or after July 1, 2008 (or the date of enactment of this paragraph, if later) shall meet the following standards:

Active Mode	
Nameplate Output	***Required Efficiency (decimal equivalent of a percentage)***
Less than 1 watt	*0.5 times the Nameplate Output*
From 1 watt to not more than 51 watts	*The sum of 0.09 times the Natural Logarithm of the Nameplate Output and 0.5*
Greater than 51 watts	*0.85*
No-Load Mode	
Nameplate Output	***Maximum Consumption***
Not more than 250 watts	*0.5 watts*

(B) Notwithstanding paragraph (A), any class A external power supply manufactured on or after July 1, 2008, and before July 1, 2015, and made available by the manufacturer as a service part or a spare part for an end-use product—

(i) that constitutes the primary load; and

(ii) was manufactured before July 1, 2008,

shall not be subject to the requirements of paragraph (A).

(C) Any class A external power supply manufactured on or after July 1, 2008 (or the date of enactment of this paragraph, if later) shall be clearly and permanently marked in accordance with the External Power Supply International Efficiency Marking Protocol, as referenced in the "Energy Star Program Requirements for Single Voltage External AC-DC and AC-AC Power Supplies, version 1.1" published by the Environmental Protection Agency.

(D)(i) Not later than July 1, 2011 the Secretary shall publish a final rule to determine whether the standards established under paragraph (A) should be amended. Such rule shall provide that any amended standard shall apply to products manufactured on or after July 1, 2013.

(ii) Not later than July 1, 2015 the Secretary shall publish a final rule to determine whether the standards established under paragraph (A) should be amended. Such rule

shall provide that any amended standard shall apply to products manufactured on or after July 1, 2017.

(6) An energy conservation standard for external power supplies shall not constitute an energy conservation standard for the separate end-use product to which it is connected.

(v) [CEILING FANS AND] REFRIGERATED BEVERAGE VENDING MACHINES.—[(1) Not later than 1 year after the date of enactment of this subsection, 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.]

[(2)] *(1)* Not later than 4 years after the date of enactment of this subsection, the Secretary shall prescribe, by rule, energy conservation standards for refrigerated bottle or canned beverage vending machines.

[(3)] *(2)* In establishing energy conservation standards under this subsection, the Secretary shall use the criteria and procedures prescribed under subsections (o) and (p).

[(4)] *(3)* Any energy conservation standard prescribed under this subsection shall apply to products manufactured 3 years after the date of publication of a final rule establishing the energy conservation standard.

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(cc) DEHUMIDIFIERS.—(1) * * *

[(2)(A) Not later than October 1, 2009, the Secretary shall publish a final rule in accordance with subsections (o) and (p), to determine whether the energy conservation standards established under paragraph (1) should be amended.

[(B) The final rule published under subparagraph (A) shall—

[(i) contain any amendment by the Secretary; and

[(ii) provide that the amendment applies to products manufactured on or after October 1, 2012.

[(C) If the Secretary does not publish an amendment that takes effect by October 1, 2012, dehumidifiers manufactured on or after October 1, 2012, shall have an Energy Factor that meets or exceeds the following values:

[Product Capacity (pints/day):	Minimum Energy Factor (Liters/kWh)
25.00 or less	1.20
25.01 – 35.00	1.30
35.01 – 45.00	1.40
45.01 – 54.00	1.50
54.01 – 74.99	1.60
75.00 or more	2.5.]

(2) Dehumidifiers manufactured on or after October 1, 2012, shall have an Energy Factor that meets or exceeds the following values:

Product Capacity (pints/day):	*Minimum Energy Factor (liters/KWh)*
Up to 35.00	*1.35*
35.01-45.00	*1.50*
45.01-54.00	*1.60*
54.01-75.00	*1.70*
Greater than 75.00	*2.5.*

* * * * * * *

(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) * * *

* * * * * * *

[(iii) Adjustable speed controls (either more than 1 speed or variable speed).**]**

[(iv)**]** *(iii)* The capability of reversible fan action, except for—

(I) fans sold for industrial applications;

(II) *fans sold for* outdoor applications; and

* * * * * * *

(4)(A) * * *

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(C) If the Secretary fails to issue a final rule by the date specified in **[**subparagraph (B)**]** *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 include the lamps described in clause (i) in the ceiling fan lighting kits.**]**

(ii) shall be packaged with lamps to fill all sockets.

* * * * * * *

(6)(A) * * *

(B) In issuing the standards under subparagraph (A), the Secretary shall consider—

[(C)**]** *(i)* exempting, or setting different standards for, certain product classes for which the primary standards are not technically feasible or economically justified; and

[(D)**]** *(ii)* establishing separate exempted product classes for highly decorative fans for which air movement performance is a secondary design feature.

(7) Section 327 shall apply to the products covered in paragraphs (1) through (4) beginning on the date of enactment of this subsection, except that any State or local labeling requirement for ceiling fans prescribed or enacted before the date of enactment of this subsection shall not be preempted until the labeling requirements applicable to ceiling fans established under section **[**327**]** *324* take effect.

* * * * * * *

(ii) STANDBY MODE.—

(1) REQUIREMENT.—Except as provided in paragraph (2), any final rule adopted after July 1, 2012, to set a new or revised energy efficiency standard for a covered product shall specify that a covered product manufactured on or after the effective date of such new or revised standard shall, when in standby mode, operate with not more than 1 watt of electric power.

(2) EXCEPTIONS.—

(A) EXTENSIONS.—The Secretary may provide a single extension of up to 2 years for compliance with paragraph (1)

with respect to a covered product if the Secretary finds that such extension is appropriate.

(B) EXEMPTIONS.—The Secretary may provide an exemption from the requirement under paragraph (1) for a covered product, after public notice and opportunity for comment, if the Secretary finds that—

(i) achieving the requirement is not technologically feasible and economically justified for that covered product; or

(ii) such an exemption is warranted for medical or military reasons.

Any exemption provided under this subparagraph shall be reviewed at least once every 5 years.

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EFFECT ON OTHER LAW

SEC. 327. (a) * * *

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(f) EXCEPTION FOR CERTAIN BUILDING CODE REQUIREMENTS.—(1) * * *

* * * * * * *

(3) Effective on the effective date of an energy conservation standard for a covered product established in or prescribed under section 325, a regulation or other requirement contained in a State or local building code for new construction concerning the energy efficiency or energy use of such covered product is not superseded by this part if the code complies with all of the following requirements:

(A) * * *

* * * * * * *

[(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 325, the baseline building designs are based on the efficiency level for such covered product which meets but does not exceed such standard or the efficiency level required by a regulation of that State for which the Secretary has issued a rule granting a waiver under subsection (d).**]**

(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 325, the baseline building designs are based on the efficiency level for such covered product which—

(i) meets but does not exceed such standard;

(ii) is 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; or

(iii) is a level that, when evaluated in the baseline building design, the State has found to be feasible and cost-effective.

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PART C—CERTAIN INDUSTRIAL EQUIPMENT

DEFINITIONS

SEC. 340. For purposes of this part—

(1) * * *

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(13)(A) [The term "electric motor" means any motor which is a general purpose T-frame, single-speed, foot-mounting, polyphase squirrel-cage induction motor of the National Electrical Manufacturers Association, Design A and B, continuous rated, operating on 230/460 volts and constant 60 Hertz line power as defined in NEMA Standards Publication MG1–1987.] *The term "general purpose electric motor (subtype I)" means any motor that meets the definition of "General Purpose" as established in the final rule issued by the Department of Energy for "Energy Efficiency Program for Certain Commercial and Industrial Equipment: Test Procedures, Labeling, and Certification Requirements for Electric Motors" (10 CFR 431), as in effect on the date of enactment of the [short title].*

(B) The term "general purpose electric motor (subtype II)" means motors incorporating the design elements of a general purpose electric motor (subtype I) that are configured as one of the following:

(i) U-Frame Motors.

(ii) Design C Motors.

(iii) Close-coupled pump motors.

(iv) Footless motors.

(v) Vertical solid shaft normal thrust motor (as tested in a horizontal configuration).

(vi) 8-pole motors (900 rpm).

(vii) All poly-phase motors with voltages up to 600 volts other than 230/460 volts.

[(B)] *(C)* The term "definite purpose motor" means any motor designed in standard ratings with standard operating characteristics or standard mechanical construction for use under service conditions other than usual or for use on a particular type of application and which cannot be used in most general purpose applications.

[(C)] *(D)* The term "special purpose motor" means any motor, other than a general purpose motor or definite purpose motor, which has special operating characteristics or special mechanical construction, or both, designed for a particular application.

[(D)] *(E)* The term "open motor" means a motor having ventilating openings which permit passage of external cooling air over and around the windings of the machine.

[(E)] *(F)* The term "enclosed motor" means a motor so enclosed as to prevent the free exchange of air between the inside

and outside of the case but not sufficiently enclosed to be termed airtight.

[(F)] *(G)* The term "small electric motor" means a NEMA general purpose alternating current single-speed induction motor, built in a two-digit frame number series in accordance with NEMA Standards Publication MG1–1987.

[(G)] *(H)* The term "efficiency" when used with respect to an electric motor means the ratio of an electric motor's useful power output to its total power input, expressed in percentage.

[(H)] *(I)* The term "nominal full load efficiency" means the average efficiency of a population of motors of duplicate design as determined in accordance with NEMA Standards Publication MG1–1987.

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(22) The term "single package vertical air conditioner" means air-cooled commercial package air conditioning and heating equipment; factory assembled as a single package having its major components arranged vertically, which is an encased combination of cooling and optional heating components, is intended for exterior mounting on, adjacent interior to, or through an outside wall; and is powered by a single- or three-phase current. It may contain separate indoor grille(s), outdoor louvers, various ventilation options, indoor free air discharge, ductwork, well plenum, or sleeve. Heating components may include electrical resistance, steam, hot water, or gas, but may not include reverse cycle refrigeration as a heating means.

(23) The term "single package vertical heat pump" means a single package vertical air conditioner that utilizes reverse cycle refrigeration as its primary heat source, that may include secondary supplemental heating by means of electrical resistance, steam, hot water, or gas.

* * * * * * *

STANDARDS

SEC. 342. (a) SMALL, LARGE, AND VERY LARGE COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT, PACKAGED TERMINAL AIR CONDITIONERS AND HEAT PUMPS, WARM-AIR FURNACES, PACKAGED BOILERS, STORAGE WATER HEATERS, INSTANTANEOUS WATER HEATERS, AND UNFIRED HOT WATER STORAGE TANKS.—(1) Each small commercial package air conditioning and heating equipment*, including single package vertical air conditioners and single package vertical heat pumps,* manufactured on or after January 1, 1994, [but before January 1, 2010,] shall meet the following standard levels:

(A) * * *

* * * * * * *

(2) Each large commercial package air conditioning and heating equipment*, including single package vertical air conditioners and single package vertical heat pumps,* manufactured on or after January 1, 1995, but before January 1, 2010, shall meet the following standard levels:

(A) * * *

* * * * * * *

(6)[(A)(i) If ASHRAE/IES Standard 90.1, as in effect on January 1, 2010, is amended with respect to any small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, and very large commercial package air conditioning and heating equipment, or if ASHRAE/IES Standard 90.1, as in effect on October 24, 1992, is amended with respect to any packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, or unfired hot water storage tanks, the Secretary shall establish an amended uniform national standard for that product at the minimum level for each effective date specified in the amended ASHRAE/IES Standard 90.1, unless the Secretary determines, by rule published in the Federal Register and supported by clear and convincing evidence, that adoption of a uniform national standard more stringent than such amended ASHRAE/IES Standard 90.1 for such product would result in significant additional conservation of energy and is technologically feasible and economically justified.

[(ii) If ASHRAE/IES Standard 90.1 is not amended with respect to small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, and very large commercial package air conditioning and heating equipment during the 5-year period beginning on the effective date of a standard, the Secretary may initiate a rulemaking to determine whether a more stringent standard—

[(I) would result in significant additional conservation of energy; and

[(II) is technologically feasible and economically justified.

[(B)(i) If the Secretary issues a rule containing such a determination, the rule shall establish such amended standard. In determining whether a standard is economically justified for the purposes of subparagraph (A), 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 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 products which are likely to result from the imposition of the standard;

[(III) the total projected amount of energy savings likely to result directly from the imposition of the standard;

[(IV) any lessening of the utility or the performance of the 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 conservation; and

[(VII) other factors the Secretary considers relevant.

[(ii) The Secretary may not prescribe any amended standard under this paragraph which increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered product. The Secretary may not prescribe an amended

standard under this subparagraph if the Secretary finds (and publishes such finding) that interested persons have established by a preponderance of the evidence that a standard is likely to result in the unavailability in the United States in any 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.]

(6)(A) If ASHRAE/IES Standard 90.1 is amended with respect to any small, large, or very large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, or unfired hot water storage tanks, the Secretary shall within 6 months publish in the Federal Register for public comment an analysis of the energy savings potential of the amended energy efficiency standards. The Secretary shall establish an amended uniform national standard for that product at the minimum level for each effective date specified in the amended ASHRAE/IES Standard 90.1 within 18 months of the ASHRAE amendment's publication, unless the Secretary determines, by rule published in the Federal Register, and supported by clear and convincing evidence, that adoption of a uniform national standard more stringent than such amended ASHRAE/IES Standard 90.1 for such product would result in significant additional conservation of energy and is technologically feasible and economically justified.

(B) If the Secretary issues a rule containing such a determination, the rule shall establish such amended standard, and shall be issued within 30 months of the ASHRAE amendment's publication.

(C)(i) 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 either—

(I) a notice of the Secretary's determination that standards for that product do not need to be amended, based on the criteria in subparagraph (A); or

(II) a notice of proposed rulemaking including new proposed standards based on the criteria and procedures in subparagraph (B).

In either case, the Secretary shall also publish a notice stating that the Department's analysis is publicly available, and provide opportunity for written comment.

(ii) Not later than 2 years after a notice is issued under clause (i)(II), the Secretary shall publish a final rule amending the standard for the product. Not later than 3 years after a determination under clause (i)(I), the Secretary shall make a new determination and publication under clause (i)(I) or (II).

(iii) An amendment prescribed under this subparagraph shall apply to products manufactured after a date which is 3 years after publication of the final rule establishing a standard, except that a manufacturer shall not be required to apply new standards to a product with respect to which other new standards have been required within the prior 6 years.

(iv) The Secretary shall promptly submit to the House Committee on Energy and Commerce and to the Senate Committee on Energy and Natural Resources a progress report every 180 days on compliance with this paragraph, including a specific plan to remedy any failures to comply with deadlines for action set forth in this paragraph.

[(C)**]** *(D)* A standard amended by the Secretary under this paragraph shall become effective for products manufactured—

(i) * * *

* * * * * * *

(7) Small commercial package air conditioning and heating equipment*, excluding single package vertical air conditioners and single package vertical heat pumps,* **[**manufactured on or after January 1, 2010,**]** shall meet the following standards:

(A) **[**The**]** *For equipment manufactured on or after January 1, 2010, the* minimum energy efficiency ratio of air-cooled central air conditioners at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be—

(i) * * *

* * * * * * *

(B) **[**The**]** *For equipment manufactured on or after January 1, 2010, the* minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be—

(i) * * *

* * * * * * *

(C) **[**The**]** *For equipment manufactured on or after January 1, 2010, the* minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.3 (at a high temperature rating of 47 degrees F db).

(D) For equipment manufactured on or after the later of January 1, 2008, or the date six months after enactment of this section, the minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 13.0.

(E) For equipment manufactured on or after the later of January 1, 2008, or the date six months after enactment of this section, minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 13.0.

(F) For equipment manufactured on or after the later of January 1, 2008, or the date six months after enactment of this section, minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 7.7.

(G) For equipment manufactured on or after the later of January 1, 2008, or the date six months after enactment of this section, the minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 7.7.

(8) Large commercial package air conditioning and heating equipment*, excluding single package vertical air conditioners and single package vertical heat pumps,* manufactured on or after January 1, 2010, shall meet the following standards:

(A) * * *

* * * * * * *

(9) Very large commercial package air conditioning and heating equipment*, excluding single package vertical air conditioners and single package vertical heat pumps,* manufactured on or after January 1, 2010, shall meet the following standards:

(A) * * *

* * * * * * *

(10)(A) The Secretary may establish regional standards for space heating and air conditioning products subject to this subsection. For each space heating and air conditioning product, the Secretary may establish a national minimum standard and two more stringent regional standards for regions determined to have significantly differing climatic conditions. Any standards set for any such region shall achieve the maximum level of energy savings that are technically feasible and economically justified within that region. Regional boundaries shall follow State borders and only include contiguous States (except Alaska and Hawaii), except that on the request of a State, the Secretary may divide that State to include a part of that State in each of two regions.

(B) If the Secretary establishes regional standards, it shall be unlawful under section 345 to offer for sale at retail, sell at retail, or install noncomplying products except within the specified regions.

(C) Manufacturers of space heating and air conditioning equipment subject to regional standards established under this paragraph shall obtain and retain records on the intended installation locations of the equipment sold, and shall make such records available to the Secretary on request.

(11) Single package vertical air conditioners and single package vertical heat pumps manufactured on or after January 1, 2010, shall meet the following standards:

(A) The minimum energy efficiency ratio of single package vertical air conditioners less than 65,000 Btu per hour (cooling capacity), single-phase, shall be 9.0.

(B) The minimum energy efficiency ratio of single package vertical air conditioners less than 65,000 Btu per hour (cooling capacity), three-phase, shall be 9.0.

(C) The minimum energy efficiency ratio of single package vertical air conditioners at or above 65,000 Btu per hour (cooling capacity) but less than 135,000 Btu per hour (cooling capacity), shall be 8.9.

(D) The minimum energy efficiency ratio of single package vertical air conditioners at or above 135,000 Btu per hour (cool-

ing capacity) but less than 240,000 Btu per hour (cooling capacity), shall be 8.6.

(E) The minimum energy efficiency ratio of single package vertical heat pumps less than 65,000 Btu per hour (cooling capacity), single-phase, shall be 9.0; and the minimum coefficient of performance in the heating mode shall be 3.0.

(F) The minimum energy efficiency ratio of single package vertical heat pumps less than 65,000 Btu per hour (cooling capacity), three-phase, shall be 9.0; and the minimum coefficient of performance in the heating mode shall be 3.0.

(G) The minimum energy efficiency ratio of single package vertical heat pumps at or above 65,000 Btu per hour (cooling capacity) but less than 135,000 Btu per hour (cooling capacity), shall be 8.9; and the minimum coefficient of performance in the heating mode shall be 3.0.

(H) The minimum energy efficiency ratio of single package vertical heat pumps at or above 135,000 Btu per hour (cooling capacity) but less than 240,000 Btu per hour (cooling capacity), shall be 8.6; and the minimum coefficient of performance in the heating mode shall be 2.9.

(12) Not later than 36 months after the date of enactment of this paragraph, the Secretary shall review the most recently published ASHRAE/IES Standard 90.1 with respect to single package vertical air conditioners and single package vertical heat pumps according to the procedures established in paragraph (6).

(b) ELECTRIC MOTORS.—(1) [Except for definite purpose motors, special purpose motors, and those motors exempted by the Secretary under paragraph (2), each electric motor manufactured (alone or as a component of another piece of equipment) after the 60-month period beginning on the date of the enactment of this subsection, or in the case of an electric motor which requires listing or certification by a nationally recognized safety testing laboratory, after the 84-month period beginning on such date, shall have a nominal full load efficiency of not less than the following:

[Number of poles	Nominal Full-Load Efficiency					
	Open Motors			Closed Motors		
	6	4	2	6	4	2
Motor Horsepower	.....	.....	.....	.....	.....	.....
1	80.0	82.5	.....	80.0	82.5	75.5
1.5	84.0	84.0	82.5	85.5	84.0	82.5
2	85.5	84.0	84.0	86.5	84.0	84.0
3	86.5	86.5	84.0	87.5	87.5	85.5
5	87.5	87.5	85.5	87.5	87.5	87.5
7.5	88.5	88.5	87.5	89.5	89.5	88.5
10	90.2	89.5	88.5	89.5	89.5	89.5
15	90.2	91.0	89.5	90.2	91.0	90.2
20	91.0	91.0	90.2	90.2	91.0	90.2
25	91.7	91.7	91.0	91.7	92.4	91.0
30	92.4	92.4	91.0	91.7	92.4	91.0
40	93.0	93.0	91.7	93.0	93.0	91.7
50	93.0	93.0	92.4	93.0	93.0	92.4
60	93.6	93.6	93.0	93.6	93.6	93.0

[Number of poles	Nominal Full-Load Efficiency					
	Open Motors			Closed Motors		
	6	4	2	6	4	2
75	93.6	94.1	93.0	93.6	94.1	93.0
100	94.1	94.1	93.0	94.1	94.5	93.6
125	94.1	94.5	93.6	94.1	94.5	94.5
150	94.5	95.0	93.6	95.0	95.0	94.5
200	94.5	95.0	94.5	95.0	95.0	95.0]

(A) Each general purpose electric motor (subtype I), except as provided in subparagraph (B), with a power rating of 1 horsepower or greater, but not greater than 200 horsepower, manufactured (alone or as a component of another piece of equipment) after the 36-month period beginning on the date of enactment of the [short title], shall have a nominal full load efficiency not less than as defined in NEMA MG-1 (2006) Table 12-12.

(B) Each fire pump motor manufactured (alone or as a component of another piece of equipment) after the 36-month period beginning on the date of enactment of the [short title], shall have nominal full load efficiency not less than as defined in NEMA MG-1 (2006) Table 12-11.

(C) Each general purpose electric motor (subtype II) with a power rating of 1 horsepower or greater, but not greater than 200 horsepower, manufactured (alone or as a component of another piece of equipment) after the 36-month period beginning on the date of enactment of the [short title], shall have a nominal full load efficiency not less than as defined in NEMA MG-1 (2006) Table 12-11.

(D) Each NEMA Design B, general purpose electric motor with a power rating of more than 200 horsepower, but not greater than 500 horsepower, manufactured (alone or as a component of another piece of equipment) after the 36-month period beginning on the date of enactment of the [short title], shall have a nominal full load efficiency not less than as defined in NEMA MG-1 (2006) Table 12-11.

* * * * * * *

(f) STANDBY POWER.—

(1) REQUIREMENT.—Except as provided in paragraph (2), any final rule adopted after July 1, 2012, to set a new or revised energy efficiency standard for covered equipment shall specify that covered equipment manufactured on or after the effective date of such new or revised standard shall, when in standby mode, operate with not more than 1 watt of electric power.

(2) EXCEPTIONS.—

(A) EXTENSIONS.—The Secretary may provide a single extension of up to 5 years for compliance with paragraph (1) with respect to a covered equipment if the Secretary finds that such extension is appropriate.

(B) EXEMPTIONS.—The Secretary may provide an exemption from the requirement under paragraph (1) for covered equipment, after public notice and opportunity for comment, if the Secretary finds that—

(i) achieving the requirement is not technologically feasible and economically justified for that covered equipment; or

(ii) such an exemption is warranted for medical or military reasons.

Any exemption provided under this subparagraph shall be reviewed at least once every 5 years.

TEST PROCEDURES

SEC. 343. (a)(1) [The Secretary may conduct an evaluation of a class of covered equipment and may prescribe test procedures for such class in accordance with the provisions of this section] *At least every 7 years the Secretary shall conduct an evaluation of each class of covered equipment and—*

(A) if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of paragraphs (2) and (3), shall prescribe test procedures for such class in accordance with the provisions of this section; or

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

* * * * * * *

(9) Not later than July 1, 2009, the Secretary shall issue a final rule establishing test procedures for standby power consumption for all covered equipment, except for equipment for which the current test procedure already measures standby power consumption.

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ADMINISTRATION, PENALTIES, ENFORCEMENT, AND PREEMPTION

SEC. 345. (a) * * *

(b)(1) The provisions of section *325(p)(5), section* 326(a), (b), and (d), section 327(a), and sections 328 through 336 shall apply with respect to the equipment specified in subparagraphs (B), (C), (D), (E), and (F) of section 340(1) to the same extent and in the same manner as they apply in part A. In applying such provisions for the purposes of such equipment, paragraphs (1), (2), (3), and (4) of subsection (a) shall apply.

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PART D—STATE ENERGY CONSERVATION PLANS

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GENERAL PROVISIONS

SEC. 365. (a) * * *

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(f) For the purpose of carrying out this part, there are authorized to be appropriated [$100,000,000 for each of the fiscal years 2006 and 2007 and $125,000,000 for fiscal year 2008] *$125,000,000 for each of the fiscal years 2007, 2008, 2009, 2010, 2011, and 2012.*

* * * * * * *

PART E—INDUSTRIAL ENERGY EFFICIENCY

SEC. 371. SURVEY OF WASTE INDUSTRIAL ENERGY RECOVERY AND POTENTIAL USE.

Congress finds that—

(1) the Nation should encourage the use of otherwise wasted energy and the development of combined heat and power and other waste energy recovery projects where there is wasted thermal energy in large volumes at potentially useful temperatures;

(2) such projects would increase energy efficiency and lower pollution by generating power with no incremental fossil fuel consumption;

(3) because recovered waste energy and combined heat and power projects are associated with end-uses of thermal energy and electricity at the local level, they help avoid new transmission lines, reduce line losses, reduce local air pollutant emissions, and reduce vulnerability to extreme weather and terrorism; and

(4) States, localities, electric utilities, and other electricity customers may benefit from private investments in recovered waste energy and combined heat and power projects at industrial and commercial sites by avoiding generation, transmission and distribution expenses, and transmission line loss expenses that may otherwise be required to be recovered from ratepayers.

SEC. 372. DEFINITIONS.

For purposes of this Part:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "waste energy" means—

(A) exhaust heat and flared gases from any industrial process;

(B) waste gas or industrial tail gas that would otherwise be flared, incinerated or vented;

(C) a pressure drop in any gas, excluding any pressure drop to a condenser that subsequently vents the resulting heat; and

(D) such other forms of waste energy as the Administrator may identify.

(3) The term "recoverable waste energy" means waste energy from which electricity or useful thermal energy may be recovered through modification of existing facilities or addition of new facilities.

(4) The term "net excess power" means, for any facility, recoverable waste energy recovered in the form of electricity in amounts exceeding the total consumption of electricity at the specific time of generation on the site where the facility is located.

(5) The term "useful thermal energy" is energy in the forms of direct heat, steam, hot water, or other thermal forms that is used in production and beneficial measures for heating, cooling, humidity control, process use, or other valid thermal end-use energy requirements, and for which fuel or electricity would otherwise be consumed.

(6) The term "combined heat and power system" means a facility—

(A) that simultaneously and efficiently produces useful thermal energy and electricity; and

(B) that recovers not less than 60 percent of the energy value in the fuel (on a lower-heating-value basis) in the form of useful thermal energy and electricity.

(7) The terms "electric utility", "State regulated electric utility", "nonregulated electric utility" and other terms used in this Part have the same meanings as when such terms are used in title I of the Public Utility Regulatory Policies Act of 1978 (relating to retail regulatory policies for electric utilities).

SEC. 373. SURVEY AND REGISTRY.

(a) RECOVERABLE WASTE-ENERGY INVENTORY PROGRAM.—The Administrator, in cooperation with State energy offices, shall establish a Recoverable Waste-Energy Inventory Program. The program shall include an ongoing survey of all major industrial and large commercial combustion sources in the United States and the sites where these are located, together with a review of each for quantity and quality of waste energy.

(b) CRITERIA.—The Administrator shall, within 120 days after the enactment of this section, develop and publish proposed criteria subject to notice and comment, and within 270 days of enactment, establish final criteria, to identify and designate those sources and sites in the inventory under subsection (a) where recoverable waste energy projects or combined heat and power system projects may have economic feasibility with a payback of invested costs within 5 years or less from the date of first full project operation (including incentives offered under this Part). Such criteria will include standards that insure that projects proposed for inclusion in the Registry are not developed for the primary purpose of making sales of excess electric power under the regulatory treatment provided under this Part.

(c) TECHNICAL SUPPORT.—The Administrator shall provide to owners or operators of combustion sources technical support and offer partial funding (up to one-half of total costs) for feasibility studies to confirm whether or not investment in recovery of waste energy or combined heat and power at that source would offer a payback period of 5 years or less.

(d) REGISTRY.—(1) The Administrator shall, within one year after the enactment of this section, establish a Registry of Recoverable Waste-energy Sources, and sites on which those sources are located, which meet the criteria set forth under subsection (b). The Administrator shall update the Registry on not less than a monthly basis, and make the Registry accessible to the public on the Environmental Protection Agency web site. Any State or electric utility may contest the listing of any source or site by submitting a petition to the Administrator.

(2) The Administrator shall register and include on the Registry all sites meeting the criteria of subsection (b). The Administrator shall calculate the total amounts of potentially recoverable waste energy from sources at such sites, nationally and by State, and shall make such totals public, together with information on the air pollutant and greenhouse gas emissions savings that might be achieved with recovery of the waste energy from all sources and sites listed in the Registry.

(3) The Administrator shall notify owners or operators of Recoverable Waste-Energy Sources and sites listed in the Registry prior to publishing the listing. The owner or operator of sources at such sites may elect to have detailed quantitative information concerning that site not made public by notifying the Administrator of that election.

Information concerning that site shall be included in State totals unless there are fewer than 3 sites in the State.

(4) As waste energy projects achieve successful recovery of waste energy, the Administrator shall remove the related sites or sources from the Registry, and shall designate the removed projects as eligible for the incentive provisions provided under this Part and the regulatory treatment required by this Part. No project shall be removed from the Registry without the consent of the owner or operator of the project if the owner or operator has submitted a petition under section 375 and such petition has not been acted upon or denied.

(5) The Administrator shall not list any source constructed after the date of the enactment of this Part on the Registry if the Administrator determines that such source—

(A) was developed for the primary purpose of making sales of excess electric power under the regulatory treatment provided under this Part; or

(B) does not capture at least 60 percent of the total energy value of the fuels used (on a lower-heating-value basis) in the form of useful thermal energy, electricity, mechanical energy, chemical output, or some combination of them.

(e) SELF-CERTIFICATION.—Owners, operators, or third-party developers of industrial waste-energy projects that qualify under standards established by the Administrator may self-certify their sites or sources to the Administrator for inclusion in the Registry, subject to procedures adopted by the Administrator. To prevent a fraudulent listing, the sources shall be included on the Registry only if the Administrator confirms the submitted data, at the Administrator's discretion.

(f) NEW FACILITIES.—As a new energy-consuming industrial facility is developed after the enactment of this Part, to the extent it may constitute a site with recoverable waste energy that may qualify for the Registry, the Administrator may elect to include it in the Registry at the request of its owner or operator or developer on a conditional basis, removing the site if its development ceases or it if fails to qualify for listing under this Part.

(g) OPTIMUM MEANS OF RECOVERY.—For each site listed in the Registry, at the request of the owner or operator of the site, the Administrator shall offer, in cooperation with Clean Energy Application Centers operated by the Secretary of Energy, suggestions of optimum means of recovery of value from waste energy stream in the form of electricity, useful thermal energy, or other energy-related products.

(h) REVISION.—Each annual State report under section 548(a) of the National Energy Conservation Policy Act shall include the results of the survey for that State under this section.

(i) AUTHORIZATION.—There are authorized to be appropriated to the Administrator for the purposes of creating and maintaining the Registry and services authorized by this section not more than $1,000,000 for each of fiscal years 2008, 2009, 2010, 2010, and 2012 and not more than $5,000,000 to the States to provide funding for State energy office functions under this section.

SEC. 374. WASTE ENERGY RECOVERY INCENTIVE GRANT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—There is established in the Environmental Protection Agency a Waste Energy Recovery Incen-

tive Grant Program to provide incentive grants to owners and operators of projects that successfully produce electricity or incremental useful thermal energy from waste energy recovery (and to utilities purchasing or distributing such electricity) and to reward States that have achieved 80 percent or more of identified waste-heat recovery opportunities.

(b) GRANTS TO PROJECTS AND UTILITIES.—

(1) IN GENERAL.—The Administrator shall make grants to the owners or operators of waste energy recovery projects, and, in the case of excess power purchased or transmitted by a electric utility, to such utility. Grants may only be made upon receipt of proof of waste energy recovery or excess electricity generation, or both, from the project in a form prescribed by the Administrator, by rule.

(2) EXCESS ELECTRIC ENERGY.—In the case of waste energy recovery, the grants under this section shall be made at the rate of $10 per megawatt hour of documented electricity produced from recovered waste energy (or by prevention of waste energy in the case of a new facility) by the project during the first 3 calendar years of such production, beginning on or after the date of enactment of this Part. If the project produces net excess power and an electric utility purchases or transmits the excess power, 50 percent of so much of such grant as is attributable to the net excess power shall be paid to the electric utility purchasing or transporting the net excess power.

(3) USEFUL THERMAL ENERGY.—In the case of waste energy recovery that produces useful thermal energy that is used for a purpose different from that for which the project is principally designed, the grants under this section shall be made to the owner or operator of the waste energy recovery project at the rate of $10 for each 3,412,000 Btus of such excess thermal energy used for such different purpose.

(c) GRANTS TO STATES.—In the case of States that have achieved 80 percent or more of waste-heat recovery opportunities identified by the Administrator under this Part, the Administrator shall make grants to the States of up to $1,000 per Megawatt of waste-heat capacity recovered (or its thermal equivalent) to support State-level programs to identify and achieve additional energy efficiency.

(d) ELIGIBILITY.—The Administrator shall establish rules and guidelines to establish eligibility for grants, shall make the grant program known to those listed in the Registry, and shall offer such grants on the basis of the merits of each project in recovering or preventing waste energy throughout the United States on an impartial, objective, and not unduly discriminatory basis.

(e) AUTHORIZATION.—(1) There is authorized to be appropriated to the Administrator $100,000,000 for fiscal year 2008, and $200,000,000 for each of fiscal years 2009, 2010, 2011, and 2012 for grants under subsection (b) of this section, and such additional amounts during those years and thereafter as may be necessary for administration of the Waste Energy Recovery Incentive Grant Program.

(2) There is authorized to be appropriated to the Administrator not more than $10,000,000 for each of the first five fiscal years after the enactment of this Part, to be available until expended for purposes of grants to States under subsection (c).

SEC. 375. ADDITIONAL INCENTIVES FOR RECOVERY, UTILIZATION AND PREVENTION OF INDUSTRIAL WASTE ENERGY.

(a) CONSIDERATION OF STANDARD.—Not later than 180 days after the receipt by a State regulatory authority (with respect to each electric utility for which it has ratemaking authority), or nonregulated electric utility, of a request from a project sponsor or owner or operator, the State regulatory authority or nonregulated electric utility shall provide public notice and conduct a hearing respecting the standard established by subsection (b) and, on the basis of such hearing, shall consider and make a determination whether or not it is appropriate to implement such standard to carry out the purposes of this Part. For purposes of any such determination and any review of such determination in any court the purposes of this section supplement otherwise applicable State law. Nothing in this Part prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to adopt any such standard, pursuant to its authority under otherwise applicable State law.

(b) STANDARD FOR SALES OF EXCESS POWER.—For purposes of this section, the standard referred to in subsection (a) shall provide that an owner or operator of a waste energy recovery project identified on the Registry who generates net excess power shall be eligible to benefit from at least one of the options described in subsection (c) for disposal of the net excess power in accordance with the rate conditions and limitations described in subsection (d).

(c) OPTIONS.—The options referred to in subsection (b) are as follows:

(1) SALE OF NET EXCESS POWER TO UTILITY.—The electric utility shall purchase the net excess power from the owner or operator of the eligible waste-energy recovery project during the operation of the project under a contract entered into for that purpose.

(2) TRANSPORT BY UTILITY FOR DIRECT SALE TO THIRD PARTY.—The electric utility shall transmit the net excess power on behalf of the project owner or operator to up to three separate locations on that utility's system for direct sale by that owner or operator to third parties at such locations.

(3) TRANSPORT OVER PRIVATE TRANSMISSION LINES.—The State and the electric utility shall permit, and shall waive or modify such laws as would otherwise prohibit, the construction and operation of private electric wires constructed, owned and operated by the project owner or operator, to transport such power to up to 3 purchasers within a 3-mile radius of the project, allowing such wires to utilize or cross public rights-of-way, without subjecting the project to regulation as a public utility, and according such wires the same treatment for safety, zoning, land-use and other legal privileges as apply or would apply to the utility's own wires, except that—

(A) there shall be no grant of any power of eminent domain to take or cross private property for such wires, and

(B) such wires shall be physically segregated and not interconnected with any portion of the utility's system, except on the customer's side of the utility's revenue meter and in a manner that precludes any possible export of such

electricity onto the utility system, or disruption of such system.

(4) AGREED UPON ALTERNATIVES.—The utility and the owner or operator of the project may reach agreement on any alternate arrangement and its associated payments or rates that is mutually satisfactory and in accord with State law.

(d) RATE CONDITIONS AND CRITERIA.—

(1) IN GENERAL.—The options described in paragraphs (1) and (2) in subsection (c) shall be offered under purchase and transport rate conditions reflecting the rate components defined under paragraph (2) of this subsection as applicable under the circumstances described in paragraph (3) of this subsection.

(2) RATE COMPONENTS.—For purposes of this section:

(A) PER UNIT DISTRIBUTION COSTS.—The term "per unit distribution costs" means the utility's depreciated book-value distribution system costs divided by the previous year's volume of utility electricity sales or transmission at the distribution level in kilowatt hours.

(B) PER UNIT DISTRIBUTION MARGIN.—The term "per unit distribution margin" means:

(i) In the case of a State regulated electric utility, a per-unit gross pretax profit determined by multiplying the utility's State-approved percentage rate of return for distribution system assets by the per unit distribution costs.

(ii) In the case of an nonregulated utility, a per unit contribution to net revenues determined by dividing the amount of any net revenue payment or contribution to the nonregulated utility's owners or subscribers in the prior year by the utility's gross revenues for the prior year to obtain a percentage (but not less than 10 percent) and multiplying that percentage by the per unit distribution costs.

(C) PER UNIT TRANSMISSION COSTS.—The term "per unit transmission costs" means the total cost of those transmission services purchased or provided by a utility on a per-kilowatt-hour basis as included in that utility's retail rate.

(3) APPLICABLE RATES.—

(A) RATES APPLICABLE TO SALE OF NET EXCESS POWER.—Sales made by a project owner or operator under the option described in subsection (c) (1) shall be paid for on a per kilowatt hour basis that shall equal the full undiscounted retail rate paid to the utility for power purchased by such a facility minus per unit distribution costs, as applicable to the type of utility purchasing the power. If the net excess power is made available for purchase at voltages that must be transformed to or from voltages exceeding 25 kilovolts to be available for resale by the utility, then the purchase price shall further be reduced by per unit transmission costs.

(B) RATES APPLICABLE TO TRANSPORT BY UTILITY FOR DIRECT SALE TO THIRD PARTIES.—Transportation by utilities of power on behalf of the owner or operator of a project under the option described in subsection (c)(2) shall incur

a transportation rate equal to the per unit distribution costs and per unit distribution margin, as applicable to the type of utility transporting the power. If the net excess power is made available for transportation at voltages that must be transformed to or from voltages exceeding 25 kilovolts to be transported to the designated third-party purchasers, then the transport rate shall further be increased by per unit transmission costs. In States with competitive retail markets for electricity, the applicable transportation rate for similar transportation shall be applied in lieu of any rate calculated under this paragraph.

(4) LIMITATIONS.—(A) Any rate established for sale or transportation under this section shall be modified over time with changes in the electric utility's underlying costs or rates, and shall reflect the same time-sensitivity and billing periods as are established in the retail sales or transportation rates offered by the utility.

(B) No utility shall be required to purchase or transport an amount of net excess power under this section that exceeds the available capacity of the wires, meter, or other equipment of the electric utility serving the site unless the owner or operator of the project agrees to pay necessary and reasonable upgrade costs.

(e) PROCEDURAL REQUIREMENTS FOR CONSIDERATION AND DETERMINATION.—(1) The consideration referred to in subsection (b) shall be made after public notice and hearing. The determination referred to in subsection (b) shall be—

(A) in writing,

(B) based upon findings included in such determination and upon the evidence presented at the hearing, and

(C) available to the public.

(2) The Administrator may intervene as a matter of right in a proceeding conducted under this section and may calculate the energy and emissions likely to be saved by electing to adopt one or more of the options, as well as the costs and benefits to ratepayers and the utility and to advocate for the waste-energy recovery opportunity.

(3) Except as otherwise provided in paragraph (1), and paragraph (2), the procedures for the consideration and determination referred to in subsection (a) shall be those established by the State regulatory authority or the nonregulated electric utility. In the instance that there is more than one project seeking such consideration simultaneously in connection with the same utility, such proceeding may encompass all such projects, provided that full attention is paid to their individual circumstances and merits, and an individual judgment is reached with respect to each project.

(f) IMPLEMENTATION.—(1) The State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility may, to the extent consistent with otherwise applicable State law—

(A) implement the standard determined under this section, or

(B) decline to implement any such standard.

(2) If a State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility declines to implement any standard established by this

section, such authority or nonregulated electric utility shall state in writing the reasons therefor. Such statement of reasons shall be available to the public, and the Administrator shall include the project in an annual report to Congress concerning lost opportunities for waste-heat recovery, specifically identifying the utility and stating the amount of lost energy and emissions savings calculated. If a State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility declines to implement the standard established by this section, the project sponsor may submit a new petition under this section with respect to such project at any time after 24 months after the date on which the State regulatory authority or nonregulated utility has declined to implement such standard.

SEC. 376. CLEAN ENERGY APPLICATION CENTERS.

(a) PURPOSE.—The purpose of this section is to rename and provide for the continued operation of the United States Department of Energy's Regional Combined Heat and Power (CHP) Application Centers.

(b) FINDINGS.—The Congress finds the Department of Energy's Regional Combined Heat and Power (CHP) Application Centers program has produced significant energy savings and climate change benefits and will continue to do so through the deployment of clean energy technologies such as Combined Heat and Power (CHP), recycled waste energy and biomass energy systems, in the industrial and commercial energy markets.

(c) RENAMING.—The Combined Heat and Power Application Centers at the Department of Energy are hereby be redesignated as Clean Energy Application Centers. Any reference in any law, rule or regulation or publication to the Combined Heat and Power Application Centers shall be treated as a reference to the Clean Energy Application Centers.

(d) RELOCATION.—In order to better coordinate efforts with the separate Industrial Assessment Centers and to assure that the energy efficiency and, when applicable, the renewable nature of deploying mature clean energy technology is fully accounted for, the Secretary of Energy shall relocate the administration of the Clean Energy Application Centers to the Office of Energy Efficiency and Renewable Energy within the Department of Energy. The Office of Electricity Delivery and Energy Reliability shall continue to perform work on the role of such technology in support of the grid and its reliability and security, and shall assist the Clean Energy Application Centers in their work with regard to the grid and with electric utilities.

(e) GRANTS.—

(1) IN GENERAL.—The Secretary of Energy shall make grants to universities, research centers, and other appropriate institutions to assure the continued operations and effectiveness of 8 Regional Clean Energy Application Centers in each of the following regions (as designated for such purposes as of the date of the enactment of this section):

(A) Gulf Coast.
(B) Intermountain.
(C) Mid-Atlantic.
(D) Midwest.
(E) Northeast.

(F) Northwest.
(G) Pacific.
(H) Southeast.

(2) ESTABLISHMENT OF GOALS AND COMPLIANCE.—In making grants under this section, the Secretary shall ensure that sufficient goals are established and met by each Center throughout the program duration concerning outreach and technology deployment.

(f) ACTIVITIES.—Each Clean Energy Application Center shall operate a program to encourage deployment of clean energy technologies through education and outreach to building and industrial professionals, and to other individuals and organizations with an interest in efficient energy use. In addition, the Centers shall provide project specific support to building and industrial professionals through assessments and advisory activities. Funds made available under this section may be used for the following activities:

(1) Developing and distributing informational materials on clean energy technologies, including continuation of the eight existing Web sites.

(2) Developing and conducting target market workshops, seminars, internet programs and other activities to educate end users, regulators, and stakeholders in a manner that leads to the deployment of clean energy technologies.

(3) Providing or coordinating onsite assessments for sites and enterprises that may consider deployment of clean energy technology.

(4) Performing market research to identify high profile candidates for clean energy deployment.

(5) Providing consulting support to sites considering deployment of clean energy technologies.

(6) Assisting organizations developing clean energy technologies to overcome barriers to deployment.

(7) Assisting companies and organizations with performance evaluations of any clean energy technology implemented.

(g) DURATION.—A grant awarded under this section shall be for a period of 5 years. each grant shall be evaluated annually for its continuation based on its activities and results.

(h) AUTHORIZATION.—There is authorized to be appropriated for purposes of this section the sum of $10,000,000 for each of fiscal years 2008, 2009, 2010, 2011, and 2012.

ENERGY POLICY ACT OF 2005

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TITLE I—ENERGY EFFICIENCY

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Subtitle C—Energy Efficient Products

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SEC. 135. ENERGY CONSERVATION STANDARDS FOR ADDITIONAL PRODUCTS.

(a) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended—

(1) in paragraph (29)—

(A) in subparagraph (D)—

(i) * * *

(ii) in clause (ii), by striking "[C78.1–1978(R1984)] *C78.3–1978(R1984)*" and inserting "C78.81–2003 (Data Sheet 7881–ANSI–3007–1)"; and

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TITLE 40, UNITED STATES CODE

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PART A—GENERAL

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SUBCHAPTER VI—MISCELLANEOUS

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CHAPTER 33—INSPECTION GENERALLY

Sec.
3301. Vessels subject to inspection.

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[3313. Compliance with certificate of inspection.
[3314. Expiration of certificate of inspection.
[3315. Disclosure of defects and protection of informants.]
3313. Use of energy efficient lighting fixtures and bulbs.
3314. Delegation.
3315. Report to Congress.
3316. Certain authority not affected.

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§ 3313. Use of energy efficient lighting fixtures and bulbs

(a) CONSTRUCTION AND ALTERATION OF PUBLIC BUILDINGS.—Each public building constructed or significantly altered by the Administrator of General Services shall be equipped, to the maximum extent feasible as determined by the Administrator, with lighting fixtures and bulbs that are energy efficient.

(b) MAINTENANCE OF PUBLIC BUILDINGS.—Each lighting fixture or bulb that is replaced by the Administrator in the normal course of maintenance of public buildings shall be replaced, to the maximum extent feasible as determined by the Administrator, with a lighting fixture or bulb that is energy efficient.

(c) CONSIDERATIONS.—In making a determination under this section concerning the feasibility of installing a lighting fixture or bulb that is energy efficient, the Administrator shall consider—

(1) the life cycle cost effectiveness of the fixture or bulb;

(2) the compatibility of the fixture or bulb with existing equipment;

(3) whether use of the fixture or bulb could result in interference with productivity;

(4) the aesthetics relating to use of the fixture or bulb; and

(5) such other factors as the Administrator determines appropriate.

(d) ENERGY STAR.—A lighting fixture or bulb shall be treated as being energy efficient for purposes of this section if—

(1) the fixture or bulb is certified under the Energy Star program established by section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a);

(2) in the case of all LED luminaires, lamps, and systems whose efficacy (lumens per watt) and Color Rendering Index (CRI) meet the requirements for minimum luminaire efficacy and CRI for the Energy Star certification, as verified by an independent third-party testing laboratory that conducts its tests according to the procedures and recommendations of the Illuminating Engineering Society of North America, even if these luminaires, lamps, and systems have not received such certification; or

(3) the Administrator has otherwise determined that the fixture or bulb is energy efficient.

(e) SIGNIFICANT ALTERATIONS.—A public building shall be treated as being significantly altered for purposes of subsection (a) if the alteration is subject to congressional approval under section 3307.

(f) EFFECTIVE DATE.—The requirements of subsections (a) and (b) shall take effect one year after the date of enactment of this subsection.

§ [3313.] *3314.* Delegation

(a) * * *

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§ [3314.] *3315.* Report to Congress

(a) * * *

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§ [3315.] *3316.* Certain authority not affected

This chapter does not limit or repeal the authority conferred by law on the United States Postal Service.

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ENERGY CONSERVATION AND PRODUCTION ACT

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TITLE III—ENERGY CONSERVATION STANDARDS FOR NEW BUILDINGS

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DEFINITIONS

SEC. 303. As used in this title:

(1) * * *

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(17) The term "IECC" means the International Energy Conservation Code.

[SEC. 304. UPDATING STATE BUILDING ENERGY EFFICIENCY CODES.

[(a) CONSIDERATION AND DETERMINATION RESPECTING RESIDENTIAL BUILDING ENERGY CODES.—(1) Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, each State shall certify to the Secretary that it has reviewed the provisions of its residential building code regarding energy efficiency and made a determination as to whether it is appropriate for such State to revise such residential building code provisions to meet or exceed CABO Model Energy Code, 1992.

[(2) The determination referred to in paragraph (1) shall be—

[(A) made after public notice and hearing;

[(B) in writing;

[(C) based upon findings included in such determination and upon the evidence presented at the hearing; and

[(D) available to the public.

[(3) Each State may, to the extent consistent with otherwise applicable State law, revise the provisions of its residential building code regarding energy efficiency to meet or exceed CABO Model Energy Code, 1992, or may decline to make such revisions.

[(4) If a State makes a determination under paragraph (1) that it is not appropriate for such State to revise its residential building code, such State shall submit to the Secretary, in writing, the reasons for such determination, and such statement shall be available to the public.

[(5)(A) Whenever CABO Model Energy Code, 1992, (or any successor of such code) is revised, the Secretary shall, not later than 12 months after such revision, determine whether such revision would improve energy efficiency in residential buildings. The Secretary shall publish notice of such determination in the Federal Register.

[(B) If the Secretary makes an affirmative determination under subparagraph (A), each State shall, not later than 2 years after the date of the publication of such determination, certify that it has reviewed the provisions of its residential building code regarding energy efficiency and made a determination as to whether it is appropriate for such State to revise such residential building code provisions to meet or exceed the revised code for which the Secretary made such determination.

[(C) Paragraphs (2), (3), and (4) shall apply to any determination made under subparagraph (B).

[(b) CERTIFICATION OF COMMERCIAL BUILDING ENERGY CODE UPDATES.—(1) Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, each State shall certify to the Secretary that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency. Such certification shall include a demonstration that such State's code provisions meet or exceed the requirements of ASHRAE Standard 90.1–1989.

[(2)(A) Whenever the provisions of ASHRAE Standard 90.1–1989 (or any successor standard) regarding energy efficiency in commercial buildings are revised, the Secretary shall, not later than 12 months after the date of such revision, determine whether such revision will improve energy efficiency in commercial buildings. The

Secretary shall publish a notice of such determination in the Federal Register.

[(B)(i) If the Secretary makes an affirmative determination under subparagraph (A), each State shall, not later than 2 years after the date of the publication of such determination, certify that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency in accordance with the revised standard for which such determination was made. Such certification shall include a demonstration that the provisions of such State's commercial building code regarding energy efficiency meet or exceed such revised standard.

[(ii) If the Secretary makes a determination under subparagraph (A) that such revised standard will not improve energy efficiency in commercial buildings, State commercial building code provisions regarding energy efficiency shall meet or exceed ASHRAE Standard 90.1–1989, or if such standard has been revised, the last revised standard for which the Secretary has made an affirmative determination under subparagraph (A).

[(c) EXTENSIONS.—The Secretary shall permit extensions of the deadlines for the certification requirements under subsections (a) and (b) if a State can demonstrate that it has made a good faith effort to comply with such requirements and that it has made significant progress in doing so.

[(d) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States to implement the requirements of this section, and to improve and implement State residential and commercial building energy efficiency codes or to otherwise promote the design and construction of energy efficient buildings.

[(e) AVAILABILITY OF INCENTIVE FUNDING.—(1) The Secretary shall provide incentive funding to States to implement the requirements of this section, and to improve and implement State residential and commercial building energy efficiency codes, including increasing and verifying compliance with such codes. In determining whether, and in what amount, to provide incentive funding under this subsection, the Secretary shall consider the actions proposed by the State to implement the requirements of this section, to improve and implement residential and commercial building energy efficiency codes, and to promote building energy efficiency through the use of such codes.

[(2) Additional funding shall be provided under this subsection for implementation of a plan to achieve and document at least a 90 percent rate of compliance with residential and commercial building energy efficiency codes, based on energy performance—

[(A) to a State that has adopted and is implementing, on a statewide basis—

[(i) a residential building energy efficiency code that meets or exceeds the requirements of the 2004 International Energy Conservation Code, or any succeeding version of that code that has received an affirmative determination from the Secretary under subsection (a)(5)(A); and

[(ii) a commercial building energy efficiency code that meets or exceeds the requirements of the ASHRAE Standard 90.1–2004, or any succeeding version of that standard

that has received an affirmative determination from the Secretary under subsection (b)(2)(A); or

[(B) in a State in which there is no statewide energy code either for residential buildings or for commercial buildings, to a local government that has adopted and is implementing residential and commercial building energy efficiency codes, as described in subparagraph (A).

[(3) Of the amounts made available under this subsection, the Secretary may use $500,000 for each fiscal year to train State and local officials to implement codes described in paragraph (2).

[(4)(A) There are authorized to be appropriated to carry out this subsection—

[(i) $25,000,000 for each of fiscal years 2006 through 2010; and

[(ii) such sums as are necessary for fiscal year 2011 and each fiscal year thereafter.

[(B) Funding provided to States under paragraph (2) for each fiscal year shall not exceed one-half of the excess of funding under this subsection over $5,000,000 for the fiscal year.]

SEC. 304. UPDATING STATE BUILDING ENERGY EFFICIENCY CODES.

(a) UPDATING NATIONAL MODEL BUILDING ENERGY CODES.—(1) The Secretary shall support updating the national model building energy codes and standards at least every three years to achieve overall energy savings, compared to the 2006 IECC for residential buildings and ASHRAE Standard 90.1 2004 for commercial buildings, of at least—

(A) 30 percent by 2010;

(B) 50 percent by 2020; and

(C) targets to be set by the Secretary in intermediate and subsequent years, at the maximum level of energy efficiency that is technologically feasible and life-cycle cost effective.

(2)(A) Whenever the provisions of the IECC or ASHRAE Standard 90.1 regarding building energy use are revised, the Secretary shall, not later than 6 months after the date of such revision, determine—

(i) whether such revision will improve energy efficiency in buildings; and

(ii) whether such revision will meet the targets under paragraph (1).

(B) If the Secretary makes a determination under subparagraph (A)(ii) that a code or standard does not meet the targets under paragraph (1), or if a national model code or standard is not updated for more than three years, then the Secretary shall within 12 months propose a modified code or standard that meets such targets. The modified code or standard shall serve as the baseline for the next determination under subparagraph (A)(i).

(C) The Secretary shall provide the opportunity for public comment on targets, determinations, and modified codes and standards under this subsection, and shall publish notice of targets, determinations, and modified codes and standards under this subsection in the Federal Register.

(b) STATE CERTIFICATION OF BUILDING ENERGY CODE UPDATES.—(1) Not later than 2 years after the date of enactment of the [short title], each State shall certify to the Secretary that it has reviewed and updated the provisions of its residential and commercial building codes regarding energy efficiency. Such certification shall in-

clude a demonstration that such State's code provisions meet or exceed the 2006 IECC for residential buildings and the ASHRAE Standard 90.1-2004 for commercial buildings, or achieve equivalent or greater energy savings.

(2)(A) If the Secretary makes an affirmative determination under subsection (a)(2)(A)(i) or proposes a modified code or standard under subsection (a)(2)(B), each State shall within 2 years certify that it has reviewed and updated the provisions of its building code regarding energy efficiency. Such certification shall include a demonstration that such State's code provisions meet or exceed the revised code or standard, or achieve equivalent or greater energy savings.

(B) If the Secretary fails to make a determination under subsection (a)(2)(A)(i) by the date specified in subsection (a)(2), or makes a negative determination, each State shall within 2 years after the specified date or the date of the determination, certify that it has reviewed the revised code or standard, and updated the provisions of its building code regarding energy efficiency to meet or exceed any provisions found to improve energy efficiency in buildings, or to achieve equivalent or greater energy savings in other ways.

(c) STATE CERTIFICATION OF COMPLIANCE WITH BUILDING CODES.—(1) Each State shall, not later than 3 years after a certification under subsection (b), certify that it has achieved compliance with the certified building energy code. Such certification shall include documentation of the rate of compliance based on independent inspections of a random sample of the new and renovated buildings covered by the code in the preceding year.

(2) A State shall be considered to achieve compliance under paragraph (1) if—

(A) at least 90 percent of new and renovated buildings covered by the code in the preceding year substantially meet all the requirements of the code; or

(B) the estimated excess energy use of new and renovated buildings that did not meet the code in the preceding year, compared to a baseline of comparable buildings that meet the code, is not more than 10 percent of the estimated energy use of all new and renovated buildings covered by the code in the preceding year.

(d) FAILURE TO MEET DEADLINES.—(1) The Secretary shall permit extensions of the deadlines for the certification requirements under subsections (b) and (c) of this section for up to 1 year if a State can demonstrate that it has made a good faith effort to comply with such requirements and that it has made significant progress in doing so.

(2) Any State for which the Secretary has not accepted a certification by a deadline under subsection (b) or (c) of this section, with any extension granted under paragraph (1), is out of compliance with this section.

(3) In any State that is out of compliance with this section, a local government may be in compliance with this section by meeting the certification requirements under subsections (b) and (c) of this section.

(e) TECHNICAL ASSISTANCE.—(1) The Secretary shall provide technical assistance, including building energy analysis and design tools, building demonstrations, and design assistance and training

to enable the national model building energy codes and standards to meet the targets in subsection (a)(1).

(2) The Secretary shall provide technical assistance to States to implement the requirements of this section, including procedures for States to demonstrate that their code provisions achieve equivalent or greater energy savings than the national model codes and standards, and to improve and implement State residential and commercial building energy efficiency codes or to otherwise promote the design and construction of energy efficient buildings.

(f) AVAILABILITY OF INCENTIVE FUNDING.—(1) The Secretary shall provide incentive funding to States to implement the requirements of this section, and to improve and implement State residential and commercial building energy efficiency codes, including increasing and verifying compliance with such codes. In determining whether, and in what amount, to provide incentive funding under this subsection, the Secretary shall consider the actions proposed by the State to implement the requirements of this section, to improve and implement residential and commercial building energy efficiency codes, and to promote building energy efficiency through the use of such codes.

(2) Additional funding shall be provided under this subsection for implementation of a plan to achieve and document at least a 90 percent rate of compliance with residential and commercial building energy efficiency codes, based on energy performance—

(A) to a State that has adopted and is implementing, on a Statewide basis—

(i) a residential building energy efficiency code that meets or exceeds the requirements of the 2006 IECC, or any succeeding version of that code that has received an affirmative determination from the Secretary under subsection (a)(2)(A)(i); and

(ii) a commercial building energy efficiency code that meets or exceeds the requirements of the ASHRAE Standard 90.1-2004, or any succeeding version of that standard that has received an affirmative determination from the Secretary under subsection (a)(2)(A)(i); or

(B) in a State in which there is no Statewide energy code either for residential buildings or for commercial buildings, or where State codes fail to comply with subparagraph (A), to a local government that has adopted and is implementing residential and commercial building energy efficiency codes, as described in subparagraph (A).

(3) Of the amounts made available under this subsection, the Secretary may use amounts required, not exceeding $500,000 for each State, to train State and local officials to implement codes described in paragraph (2).

(4)(A) There are authorized to be appropriated to carry out this subsection—

(i) $25,000,000 for each of fiscal years 2008 through 2012; and

(ii) such sums as are necessary for fiscal year 2013 and each fiscal year thereafter.

(B) Funding provided to States under paragraph (2) for each fiscal year shall not exceed one-half of the excess of funding under this subsection over $5,000,000 for the fiscal year.

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TITLE IV—ENERGY CONSERVATION AND RENEWABLE-RESOURCE ASSISTANCE FOR EXISTING BUILDINGS

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PART A—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

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AUTHORIZATION OF APPROPRIATIONS

SEC. 422. For the purpose of carrying out the weatherization program under this part, there are authorized to be appropriated [$500,000,000 for fiscal year 2006, $600,000,000 for fiscal year 2007, and $700,000,000 for fiscal year 2008] *$600,000,000 for fiscal year 2007, and $750,000,000 for each of fiscal years 2008, 2009, 2010, 2011, and 2012. From those sums, the Secretary is authorized to initiate an Alternative Delivery System Pilot Project to examine options for decreasing energy consumption associated with heating and cooling while increasing household participation by focusing on key energy saving components. Alternative Delivery System Pilot Projects should be undertaken in both hot and cold urban areas.*

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NATIONAL ENERGY CONSERVATION POLICY ACT

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TITLE V—FEDERAL ENERGY INITIATIVE

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PART 3—FEDERAL ENERGY MANAGEMENT

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SEC. 543. ENERGY MANAGEMENT REQUIREMENTS.

(a) * * *

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(f) USE OF ENERGY AND WATER EFFICIENCY MEASURES IN FEDERAL BUILDINGS.—

(1) FACILITY ENERGY MANAGERS.—

(A) IN GENERAL.—Each federal agency shall designate a manager responsible for implementing this subsection and reducing energy use at each building or facility that meets criteria under subparagraph (B).

(B) COVERED FACILITIES.—The Secretary shall develop criteria, after consultation with affected agencies, energy efficiency advocates, and energy and utility service providers, that cover buildings and facilities, including central utility

plants and distribution systems and other energy intensive operations, comprising at least two-thirds of total Federal building and facility energy use.

(2) ENERGY AND WATER EVALUATIONS AND COMMISSIONING.—

(A) EVALUATIONS.—Not later than 18 months after the date of enactment of this subsection, and every 5 years thereafter, each energy manager shall complete a comprehensive energy and water evaluation for each building or facility that meets criteria under paragraph (1)(B).

(B) RECOMMISSIONING AND RETROFITTING.—As part of the evaluation under subparagraph (A) or on the same schedule the energy manager shall recommission and retrofit each such building and facility if applicable.

(3) IMPLEMENTATION OF IDENTIFIED ENERGY AND WATER EFFICIENCY MEASURES.—

(A) IN GENERAL.—Not later than 2 years after the completion of each evaluation under paragraph (1), each energy manager—

(i) shall fully implement each energy and water-saving measure identified in the evaluation conducted under paragraph (2) that is life-cycle cost-effective and has a 12-year or shorter simple payback period;

(ii) may implement any energy or water-saving measure that the Federal agency identified in the evaluation conducted under paragraph (1) that is life-cycle cost-effective and has longer than a 12-year simple payback period; and

(iii) may bundle individual measures of varying paybacks together into combined projects.

(B) PAYBACK PERIOD.—For the purpose of subparagraph (A), the simple payback period of a measure shall be obtained by dividing—

(i) the estimated initial implementation cost of the measure (other than financing costs); by

(ii) the annual cost savings from the measure.

(C) COST SAVINGS.—For the purpose of subparagraph (B), cost savings shall include net savings in estimated—

(i) energy and water costs; and

(ii) operations, maintenance, repair, replacement, and other direct costs.

(D) EXCEPTIONS.—The Secretary may modify or make exceptions to the calculation of a 12-year simple payback under this paragraph in the guidelines issued by the Secretary under paragraph (5).

(E) LIFE-CYCLE COST-EFFECTIVE.—For the purpose of subparagraph (A), determination of whether a measure is life-cycle cost-effective shall use methods and procedures developed pursuant to section 544.

(4) FOLLOW-UP ON IMPLEMENTED MEASURES.—For each measure implemented under paragraph (3), each energy manager shall ensure that—

(A) equipment, including building and equipment controls, is fully commissioned at acceptance to be operating at design specifications;

(B) a plan for appropriate operations, maintenance, and repair of the equipment is in place at acceptance and is followed;

(C) equipment and system performance is measured during its entire life to ensure proper operations, maintenance, and repair; and

(D) energy and water savings are measured and verified.

(5) GUIDELINES.—

(A) IN GENERAL.—The Secretary shall issue guidelines and necessary criteria that each Federal agency shall follow for implementation of—

(i) paragraphs (1) and (2) not later than 180 days after the date of enactment of this subsection; and

(ii) paragraphs (3) and (4) not later than 1 year after the date of enactment of this subsection.

(B) RELATIONSHIP TO FUNDING SOURCE.—The guidelines issued by the Secretary under subparagraph (A) shall be appropriate and uniform for measures funded with each type of funding made available under paragraph (9), but may distinguish between different types of measures project size, and other criteria the Secretary determines are relevant.

(6) WEB-BASED CERTIFICATION.—

(A) IN GENERAL.—For each building or facility that meets the criteria established by the Secretary under paragraph (1), the energy manager shall use the web-based tracking system under subparagraph (B) to certify compliance with the requirements for—

(i) energy and water evaluations and recommissioning and retrofitting under paragraph (2);

(ii) implementation of identified energy and water measures under paragraph (3); and

(iii) follow-up on implemented measures under paragraph (4).

(B) DEPLOYMENT.—

(i) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall develop and deploy the web-based tracking system required under this paragraph in a manner that tracks, at a minimum—

(I) the covered buildings and facilities;

(II) the status of meeting the requirements specified in subparagraph (A);

(III) the estimated cost and savings for measures required to be implemented in a building or facility; and

(IV) the measured savings and persistence of savings for implemented measures.

(ii) EASE OF COMPLIANCE.—The Secretary shall ensure that energy manager compliance with the requirements in this paragraph, to the greatest extent practicable, can be accomplished with the use of streamlined procedures, and templates that minimize the time demands on Federal employees.

(C) AVAILABILITY.—

(i) IN GENERAL.—Subject to clause (ii), the Secretary shall make the web-based tracking system required under this paragraph available to Congress, other Federal agencies, and the public through the Internet.

(ii) EXEMPTIONS.—At the request of a Federal agency, the Secretary may exempt specific data for specific buildings from disclosure under clause (i) for national security purposes.

(7) BENCHMARKING OF FEDERAL FACILITIES.—

(A) IN GENERAL.—The energy manager shall enter energy use data for each building or facility that meets the criteria established by the Secretary under paragraph (1) into a building energy use benchmarking system, such as the Energy Star Portfolio Manager.

(B) SYSTEM AND GUIDANCE.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall—

(i) select or develop the building energy use benchmarking system required under this paragraph for each type of building; and

(ii) issue guidance for use of the system.

(8) FEDERAL AGENCY SCORECARDS.—

(A) IN GENERAL.—The Director of the Office of Management and Budget shall issue semiannual scorecards for energy management activities carried out by each Federal agency that includes—

(i) summaries of the status of implementing the various requirements of the agency and its energy managers under this subsection; and

(ii) any other means of measuring performance that the Director considers appropriate.

(B) AVAILABILITY.—The Director shall make the scorecards required under this paragraph available to Congress, other Federal agencies, and the public through the Internet.

(9) FUNDING AND IMPLEMENTATION.—

(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(B) FUNDING OPTIONS.—

(i) IN GENERAL.—To carry out this subsection, a Federal agency may use any combination of—

(I) appropriated funds made available under subparagraph (A); and

(II) private financing, including financing available through energy savings performance contracts or utility energy service contracts.

(ii) COMBINED FUNDING FOR SAME MEASURE.—A Federal agency may use any combination of appropriated funds and private financing described in clause (i) to carry out the same measure under this subsection, with proportional allocation for any energy and water savings.

(iii) LACK OF APPROPRIATED FUNDS.—Since measures may be carried out using private financing described in clause (i), a lack of available appropriations shall not

be considered a sufficient reason for the failure of a Federal agency to comply with this subsection.

(C) IMPLEMENTATION.—Each Federal agency may implement the requirements under this subsection itself or may contract out performance of some or all of the requirements.

(10) RULE OF CONSTRUCTION.—This subsection shall not be construed either to require or to obviate any contractor savings guarantees.

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SEC. 548. REPORTS.

(a) REPORTS TO THE SECRETARY.—Each agency shall transmit a report to the Secretary, at times specified by the Secretary but at least annually, with complete information on its activities under this part, including information on—

(1) * * *

(2) the procedures being used by the agency pursuant to section 546(a)(2), the number of contracts entered into by such agency under title VIII of this Act, the energy and cost savings that have resulted from such contracts *and any termination penalty exposure*, the use of such cost savings under section 546(c), and any problem encountered in entering into such contracts and otherwise implementing section 546.

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TITLE VIII—ENERGY SAVINGS PERFORMANCE CONTRACTS

SEC. 801. AUTHORITY TO ENTER INTO CONTRACTS.

(a) IN GENERAL.—(1) * * *

(2)(A) * * *

* * * * * * *

(D) A Federal agency may enter into a multiyear contract under this title for a period not to exceed 25 years *beginning on the date of the delivery order*, without funding of cancellation charges before cancellation, if—

(i) such contract was awarded in a competitive manner pursuant to subsection (b)(2), using procedures and methods established under this title;

(ii) funds are available and adequate for payment of the costs of such contract for the first fiscal year; *and*

[(iii) 30 days before the award of any such contract that contains a clause setting forth a cancellation ceiling in excess of $10,000,000, the head of such agency gives written notification of such proposed contract and of the proposed cancellation ceiling for such contract to the appropriate authorizing and appropriating committees of the Congress; and]

[(iv)] *(iii)* such contract is governed by part 17.1 of the Federal Acquisition Regulation promulgated under section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) or the applicable rules promulgated under this title.

(E) SEPARATE CONTRACTS.—In carrying out a contract under this title, a Federal agency may—

(i) enter into a separate contract for energy services and conservation measures under the contract; and

(ii) provide all or part of the financing necessary to carry out the contract.

(F) PROMOTION OF CONTRACTS.—In carrying out this section, a Federal agency shall not—

(i) establish a Federal agency policy that limits the maximum contract term under subparagraph (D) to a period shorter than 25 years; or

(ii) limit the total amount of obligations under energy savings performance contracts or other private financing of energy savings measures.

(G) MEASUREMENT AND VERIFICATION REQUIREMENTS FOR PRIVATE FINANCING.—

(i) IN GENERAL.—The evaluations and savings measurement and verification required under paragraphs (1) and (3) of section 543(f) shall be used by a Federal agency to meet the requirements for—

(I) in the case of energy savings performance contracts, the need for energy audits, calculation of energy savings, and any other evaluation of costs and savings needed to implement the guarantee of savings under this section; and

(II) in the case of utility energy service contracts, needs that are similar to the purposes described in subclause (I).

(ii) MODIFICATION OF EXISTING CONTRACTS.—Not later than 180 days after the date of enactment of this subparagraph, each Federal agency shall, to the maximum extent practicable, modify any indefinite delivery and indefinite quantity energy savings performance contracts, and other indefinite delivery and indefinite quantity contracts using private financing, to conform to the amendments made by subtitle G of title I of the short title.

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[(c) SUNSET AND REPORTING REQUIREMENTS.—The authority to enter into new contracts under this section shall cease to be effective on October 1, 2016.]

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SEC. 804. DEFINITIONS.

For purposes of this title, the following definitions apply:

(1) * * *

(2) The term "energy savings" [means a reduction]

(A) a reduction in the cost of energy, water, or wastewater treatment, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of—

[(A)] *(i)* the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

[(B)] *(ii)* the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

[(C)] *(iii)* the increased efficient use of existing water sources in either interior or exterior applications[.]*;*

(B) the increased efficient use of an existing energy source by cogeneration or heat recovery, and installation of renewable energy systems;

(C) if otherwise authorized by Federal or State law (including regulations), the sale or transfer of electrical or thermal energy generated onsite but in excess of Federal needs, to utilities or non-Federal energy users; and

(D) the increased efficient use of existing water sources in interior or exterior applications.

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TITLE 10, UNITED STATES CODE

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Subtitle A—General Military Law

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PART IV—SERVICE, SUPPLY, AND PROCUREMENT

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CHAPTER 173—ENERGY SECURITY

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SUBCHAPTER I—ENERGY SECURITY ACTIVITIES

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§ 2913. Energy savings contracts and activities

(a) * * *

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[(e) CONGRESSIONAL NOTIFICATION OF CANCELLATION CEILING FOR ENERGY SAVINGS PERFORMANCE CONTRACTS.—When a decision is made to award an energy savings performance contract that contains a clause setting forth a cancellation ceiling in excess of $7,000,000, the Secretary of Defense shall submit to the appropriate committees of Congress written notification of the proposed contract and of the proposed cancellation ceiling for the contract. The notification shall include the justification for the proposed cancellation ceiling. The contract may then be awarded only after the end of the 30-day period beginning on the date the notification is received by such committees or, if earlier, the end of the 15-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.]

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DISSENTING VIEWS OF REPRESENTATIVES JOE BARTON, RALPH M. HALL, J. DENNIS HASTERT, ED WHITFIELD, BARBARA CUBIN, JOHN SHADEGG, JOSEPH R. PITTS, SUE MYRICK, AND JOHN SULLIVAN ON ENERGY COMMITTEE PRINT 1

Committee Print 1, marked up on June 27, 2007 represents a badly misguided approach to advancing energy efficiency. Rather than bringing Americans together in a united and shared effort to achieve greater energy efficiency, it divides Americans, literally pitting some against others in legal actions. It's onus is balanced neither by sector nor by region. In it's current design it will likely set back the cause of greater energy efficiency by years.

Section 104 mandates regional standards for heating and air conditioning equipment. Giving consumers more tailored choices based on regions is laudable. A maximum efficiency air conditioning unit that runs year round in hot, muggy Florida may be uneconomic in Maine. How should consumers and retail technicians gain access to the detailed information they need to make the most informed product choice? Industry or the Department of Energy could maintain a website that lists every product on the market and estimates energy use and monthly operating cost by zip code. Instant availability of this localized information would allow technicians and consumers to drive the market.

By contrast the Committee print would make it illegal to "offer for sale at retail, sell at retail, or install non-complying (i.e., out-of-region) products." Suppose a manufacturer specializes in producing small air conditioning units for seasonal apartments. The units are compact so that they can fit into small spaces and they are typically used from late Fall to early Spring when occupancy is high. The life cycle energy cost of that unit may be less than the life cycle energy cost of a more efficient unit used throughout summer in a larger, primary residence. Nevertheless, the smaller unit would now be treated as contraband and anyone who sold it or installed it on side of a line drawn by DOE instead of the other would be an outlaw.

The bi-partisan recommendation by the Chairwoman and Ranking Minority Member of the House Committee on Small Business to study this whole proposal before giving DOE authority to put it into place was dismissed out of hand by the Majority. We cannot understand why the Committee Majority is hostile to small businesses, and so intent on needlessly pitting some citizens against others and exposing ordinary working people to such punitive actions. We disagree that the path toward energy efficiency includes bullying ordinary citizens.

Sections 131, 132, and 143 also garnered broad-based opposition from stakeholders most likely to be effected. The National Association of Homebuilders, the National Association of Realtors, the

Building Owners and Managers Association, the Manufactured Housing Institute, the International Council of Shopping Centers, the American Resort Development Association, Institute of Real Estate Management,

National Apartment Association, National Association of Industrial and Office Properties, and the National Multi-Housing Council jointly transmitted a letter to the Committee urging deletion of these three sections.

With regard to Section 131 they said "The resulting unfunded mandate could interfere with building code permitting and enforcement to the point of chilling residential and commercial real estate development."

Turning to Section 132 the letter called the Committee's attention to energy efficiency efforts already underway under the authority of the Department of Housing and Urban Development (HUD) and said that Section 132 would be "duplicative and potentially confusing." For two reasons, it is not surprising that rank-and-file Members of the Committee did not understand this duplication and conflict. The HUD program is not in our Committee's jurisdiction and not a single witness from the manufactured housing industry was invited to testify at anyone of the hearings the Committee has held in this Congress.

At issue is more than just overlapping bureaucratic exercises that single out a particular manufacturing sector for compliance burdens. Both manufacturing jobs and affordability of housing are at stake. Many lower income and first-time homeowners choose manufactured housing because it offers choices they can afford. Arbitrary efforts to drive up production costs in the name of some outside agency's—or worse, international body's—sense of "energy efficiency," despite more complete and balanced standards developed through the HUD process, could price manufactured housing out of the market. This will harm both homeowners and workers. In view of this, and of lack of real-world support for the provision, it is astonishing that the Majority, by two straight party-line votes, insisted on retaining it.

Finally, the multi-industry letter explained the real-life implications of Section 143. It stated: "the concept of developing and retrofitting buildings to zero net energy standards is unrealistic and the strict timetable to achieve these goals is unattainable." The letter went on to point out, "[E]very commercial property owner in America would be required to become a micro-utility Company. The costs of compliance would be astronomical, especially for retrofitting every commercial building in America."

The signatories to these comments all have an enlightened natural interest in, and are the real experts at, improving energy efficiency in buildings. A building that operates at lower cost has higher value. All they seem to be saying is that if Congress is to resort to federal mandates, the mandates should be economically justified and practically achievable, and that these are neither. Perhaps some on-the-record discussion of these matters during our Congressional hearing process would have brought these realities to light sooner. Unfortunately, a minority request that witnesses at an energy efficiency hearing include someone from the buildings sector was denied by the Majority.

Sections 104, 131, 132, and 143 in Committee Print 1 reflect a disregard for consumer choice and sound economics while placing thousands of manufacturing jobs at risk. We believe that our basic role as representatives in Congress is to protect the common interests of the people we are privileged to serve, not trample on them. That is why, despite our earnest desire to advance the cause of energy efficiency to help our Nation meeting our overall goal of energy security, we were compelled to oppose final approval of Committee Print 1, as amended.

As a technical note, the Majority Report accompanying Committee Print 1 makes repeated claims of various quantified energy savings to be captured by several sections of the Print. There is no direct or indirect testimony or material in the hearing record to validate these claims and in at least some instances they strike us as grossly overstated. In several cases the underlying provisions themselves were not even the subject of hearing testimony. We cannot associate ourselves with, or vouch for, these assertions in the Majority drafted report.

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