

111TH CONGRESS  
2D SESSION

# S. 3059

To improve the energy efficiency of appliances, lighting, and buildings, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 2, 2010

Mr. BINGAMAN (for himself, Ms. MURKOWSKI, and Mr. MENENDEZ) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To improve the energy efficiency of appliances, lighting, and buildings, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Energy Effi-  
5 ciency Enhancement Act of 2010”.

6 **SEC. 2. ENERGY CONSERVATION STANDARDS.**

7 (a) DEFINITION OF ENERGY CONSERVATION STAND-  
8 ARD.—Section 321 of the Energy Policy and Conservation  
9 Act (42 U.S.C. 6291) is amended—

1 (1) by striking paragraph (6) and inserting the  
2 following:

3 “(6) ENERGY CONSERVATION STANDARD.—

4 “(A) IN GENERAL.—The term ‘energy con-  
5 servation standard’ means 1 or more perform-  
6 ance standards that—

7 “(i) for covered products (excluding  
8 clothes washers, dishwashers, showerheads,  
9 faucets, water closets, and urinals), pre-  
10 scribe a minimum level of energy efficiency  
11 or a maximum quantity of energy use, de-  
12 termined in accordance with test proce-  
13 dures prescribed under section 323;

14 “(ii) for showerheads, faucets, water  
15 closets, and urinals, prescribe a minimum  
16 level of water efficiency or a maximum  
17 quantity of water use, determined in ac-  
18 cordance with test procedures prescribed  
19 under section 323; and

20 “(iii) for clothes washers and dish-  
21 washers—

22 “(I) prescribe a minimum level of  
23 energy efficiency or a maximum quan-  
24 tity of energy use, determined in ac-

1 cordance with test procedures pre-  
2 scribed under section 323; and

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

7 “(B) INCLUSIONS.—The term ‘energy con-  
8 servation standard’ includes—

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

11 “(I) on or before the date of en-  
12 actment of this subclause;

13 “(II) as part of a direct final rule  
14 under section 325(p)(4); or

15 “(III) as part of a final rule  
16 published on or after January 1,  
17 2012; and

18 “(ii) any other requirements that the  
19 Secretary may prescribe under section  
20 325(r).

21 “(C) EXCLUSION.—The term ‘energy con-  
22 servation standard’ does not include a perform-  
23 ance standard for a component of a finished  
24 covered product, unless regulation of the com-

1           ponent is specifically authorized or established  
2           pursuant to this title.”; and

3           (2) by adding at the end the following:

4           “(66) EER.—The term ‘EER’ means energy  
5           efficiency ratio.

6           “(67) HSPF.—The term ‘HSPF’ means heat-  
7           ing seasonal performance factor.”.

8           (b) EER AND HSPF TEST PROCEDURES.—Section  
9           323(b) of the Energy Policy and Conservation Act (42  
10          U.S.C. 6293(b)) is amended by adding at the fol-  
11         lowing:

12          “(19) EER AND HSPF TEST PROCEDURES.—

13                 “(A) IN GENERAL.—Subject to subpara-  
14                 graph (B), for purposes of residential central  
15                 air conditioner and heat pump standards that  
16                 take effect on or before January 1, 2015—

17                         “(i) the EER shall be tested at an  
18                         outdoor test temperature of 95 degrees  
19                         Fahrenheit; and

20                         “(ii) the HSPF shall be calculated  
21                         based on Region IV conditions.

22                 “(B) REVISIONS.—The Secretary may re-  
23                 vise the EER outdoor test temperature and the  
24                 conditions for HSPF calculations as part of any

1 rulemaking to revise the central air conditioner  
2 and heat pump test method.”.

3 (c) CENTRAL AIR CONDITIONERS AND HEAT  
4 PUMPS.—Section 325(d) of the Energy Policy and Con-  
5 servation Act (42 U.S.C. 6295(d)) is amended by adding  
6 at the end the following:

7 “(4) CENTRAL AIR CONDITIONERS AND HEAT  
8 PUMPS (EXCEPT THROUGH-THE-WALL CENTRAL AIR  
9 CONDITIONERS, THROUGH-THE-WALL CENTRAL AIR  
10 CONDITIONING HEAT PUMPS, AND SMALL DUCT,  
11 HIGH VELOCITY SYSTEMS) MANUFACTURED ON OR  
12 AFTER JANUARY 1, 2015.—

13 “(A) BASE NATIONAL STANDARDS.—

14 “(i) SEASONAL ENERGY EFFICIENCY  
15 RATIO.—The seasonal energy efficiency  
16 ratio of central air conditioners and central  
17 air conditioning heat pumps manufactured  
18 on or after January 1, 2015, shall not be  
19 less than the following:

20 “(I) Split Systems: 13 for central  
21 air conditioners and 14 for heat  
22 pumps.

23 “(II) Single Package Systems:  
24 14.

1           “(ii) HEATING SEASONAL PERFORM-  
2 ANCE FACTOR.—The heating seasonal per-  
3 formance factor of central air conditioning  
4 heat pumps manufactured on or after Jan-  
5 uary 1, 2015, shall not be less than the  
6 following:

7                   “(I) Split Systems: 8.2.

8                   “(II) Single Package Systems:  
9                   8.0.

10           “(B) REGIONAL STANDARDS.—

11                   “(i) SEASONAL ENERGY EFFICIENCY  
12 RATIO.—The seasonal energy efficiency  
13 ratio of central air conditioners and central  
14 air conditioning heat pumps manufactured  
15 on or after January 1, 2015, and installed  
16 in States having historical average annual,  
17 population weighted, heating degree days  
18 less than 5,000 (specifically the States of  
19 Alabama, Arizona, Arkansas, California,  
20 Delaware, Florida, Georgia, Hawaii, Ken-  
21 tucky, Louisiana, Maryland, Mississippi,  
22 Nevada, New Mexico, North Carolina,  
23 Oklahoma, South Carolina, Tennessee,  
24 Texas, and Virginia) or in the District of  
25 Columbia, the Commonwealth of Puerto

1 Rico, or any other territory or possession  
2 of the United States shall not be less than  
3 the following:

4 “(I) Split Systems: 14 for central  
5 air conditioners and 14 for heat  
6 pumps.

7 “(II) Single Package Systems:  
8 14.

9 “(ii) ENERGY EFFICIENCY RATIO.—  
10 The energy efficiency ratio of central air  
11 conditioners (not including heat pumps)  
12 manufactured on or after January 1, 2015,  
13 and installed in the State of Arizona, Cali-  
14 fornia, New Mexico, or Nevada shall be not  
15 less than the following:

16 “(I) Split Systems: 12.2 for split  
17 systems having a rated cooling capaci-  
18 ty less than 45,000 BTU per hour  
19 and 11.7 for products having a rated  
20 cooling capacity equal to or greater  
21 than 45,000 BTU per hour.

22 “(II) Single Package Systems:  
23 11.0.

24 “(iii) APPLICATION OF SUBSECTION  
25 (O)(6).—Subsection (o)(6) shall apply to

1 the regional standards set forth in this  
2 subparagraph.

3 “(C) AMENDMENT OF STANDARDS.—

4 “(i) IN GENERAL.—Not later than  
5 January 1, 2017, the Secretary shall pub-  
6 lish a final rule to determine whether the  
7 standards in effect for central air condi-  
8 tioners and central air conditioning heat  
9 pumps should be amended.

10 “(ii) APPLICATION.—The rule shall  
11 provide that any amendments shall apply  
12 to products manufactured on or after Jan-  
13 uary 1, 2022.

14 “(D) CONSIDERATION OF ADDITIONAL  
15 PERFORMANCE STANDARDS OR EFFICIENCY  
16 CRITERIA.—

17 “(i) FORUM.—Not later than 4 years  
18 in advance of the expected publication date  
19 of a final rule for central air conditioners  
20 and heat pumps under subparagraph (C),  
21 the Secretary shall convene and facilitate a  
22 forum for interested persons that are fairly  
23 representative of relevant points of view  
24 (including representatives of manufactur-  
25 ers of the covered product, States, and effi-



1           ciency advocates), as determined by the  
2           Secretary, to consider adding additional  
3           performance standards or efficiency cri-  
4           teria in the forthcoming rule.

5           “(ii) RECOMMENDATION.—If, within 1  
6           year of the initial convening of such a  
7           forum, the Secretary receives a rec-  
8           ommendation submitted jointly by such  
9           representative interested persons to add 1  
10          or more performance standards or effi-  
11          ciency criteria, the Secretary shall incor-  
12          porate the performance standards or effi-  
13          ciency criteria in the rulemaking process,  
14          and, if justified under the criteria estab-  
15          lished in this section, incorporate such per-  
16          formance standards or efficiency criteria in  
17          the revised standard.

18          “(iii) NO RECOMMENDATION.—If no  
19          such joint recommendation is made within  
20          1 year of the initial convening of such a  
21          forum, the Secretary may add additional  
22          performance standards or efficiency cri-  
23          teria if the Secretary finds that the bene-  
24          fits substantially exceed the burdens of the  
25          action.

1 “(E) NEW CONSTRUCTION LEVELS.—

2 “(i) IN GENERAL.—As part of any  
3 final rule concerning central air condi-  
4 tioner and heat pump standards published  
5 after June 1, 2013, the Secretary shall de-  
6 termine if the building code levels specified  
7 in section 327(f)(3)(C) should be amended  
8 subject to meeting the criteria of sub-  
9 section (o) when applied specifically to new  
10 construction.

11 “(ii) EFFECTIVE DATE.—Any amend-  
12 ed levels shall not take effect before Janu-  
13 ary 1, 2018.

14 “(iii) AMENDED LEVELS.—The final  
15 rule shall contain the amended levels, if  
16 any.”.

17 (d) THROUGH-THE-WALL CENTRAL AIR CONDI-  
18 TIONERS, THROUGH-THE-WALL CENTRAL AIR CONDI-  
19 TIONING HEAT PUMPS, AND SMALL DUCT, HIGH VELOC-  
20 ITY SYSTEMS.—Section 325(d) of the Energy Policy and  
21 Conservation Act (42 U.S.C. 6295(d)) (as amended by  
22 subsection (c)) is amended by adding at the end the fol-  
23 lowing:

24 “(5) STANDARDS FOR THROUGH-THE-WALL  
25 CENTRAL AIR CONDITIONERS, THROUGH-THE-WALL

1 CENTRAL AIR CONDITIONING HEAT PUMPS, AND  
2 SMALL DUCT, HIGH VELOCITY SYSTEMS.—

3 “(A) DEFINITIONS.—In this paragraph:

4 “(i) SMALL DUCT, HIGH VELOCITY  
5 SYSTEM.—The term ‘small duct, high ve-  
6 locity system’ means a heating and cooling  
7 product that contains a blower and indoor  
8 coil combination that—

9 “(I) is designed for, and pro-  
10 duces, at least 1.2 inches of external  
11 static pressure when operated at the  
12 certified air volume rate of 220–350  
13 CFM per rated ton of cooling; and

14 “(II) when applied in the field,  
15 uses high velocity room outlets gen-  
16 erally greater than 1,000 fpm that  
17 have less than 6.0 square inches of  
18 free area.

19 “(ii) THROUGH-THE-WALL CENTRAL  
20 AIR CONDITIONER; THROUGH-THE-WALL  
21 CENTRAL AIR CONDITIONING HEAT  
22 PUMP.—The terms ‘through-the-wall cen-  
23 tral air conditioner’ and ‘through-the-wall  
24 central air conditioning heat pump’ mean a  
25 central air conditioner or heat pump, re-

1 spectively, that is designed to be installed  
2 totally or partially within a fixed-size open-  
3 ing in an exterior wall, and—

4 “(I) is not weatherized;

5 “(II) is clearly and permanently  
6 marked for installation only through  
7 an exterior wall;

8 “(III) has a rated cooling capac-  
9 ity no greater than 30,000 Btu/hr;

10 “(IV) exchanges all of its outdoor  
11 air across a single surface of the  
12 equipment cabinet; and

13 “(V) has a combined outdoor air  
14 exchange area of less than 800 square  
15 inches (split systems) or less than  
16 1,210 square inches (single packaged  
17 systems) as measured on the surface  
18 area described in subclause (IV).

19 “(iii) REVISION.—The Secretary may  
20 revise the definitions contained in this sub-  
21 paragraph through publication of a final  
22 rule.

23 “(B) RULEMAKING.—

24 “(i) IN GENERAL.—Not later than  
25 June 30, 2011, the Secretary shall publish

1 a final rule to determine whether stand-  
2 ards for through-the-wall central air condi-  
3 tioners, through-the-wall central air condi-  
4 tioning heat pumps and small duct, high  
5 velocity systems should be established or  
6 amended.

7 “(ii) APPLICATION.—The rule shall  
8 provide that any new or amended standard  
9 shall apply to products manufactured on or  
10 after June 30, 2016.”.

11 (e) FURNACES.—Section 325(f) of the Energy Policy  
12 and Conservation Act (42 U.S.C. 6295(f)) is amended by  
13 adding at the end the following:

14 “(5) NON-WEATHERIZED FURNACES (INCLUD-  
15 ING MOBILE HOME FURNACES, BUT NOT INCLUDING  
16 BOILERS) MANUFACTURED ON OR AFTER MAY 1,  
17 2013, AND WEATHERIZED FURNACES MANUFAC-  
18 TURED ON OR AFTER JANUARY 1, 2015.—

19 “(A) BASE NATIONAL STANDARDS.—

20 “(i) NON-WEATHERIZED FURNACES.—  
21 The annual fuel utilization efficiency of  
22 non-weatherized furnaces manufactured on  
23 or after May 1, 2013, shall be not less  
24 than the following:

25 “(I) Gas furnaces: 80 percent.

1                   “(II) Oil furnaces: 83 percent.

2                   “(ii) WEATHERIZED FURNACES.—The  
3                   annual fuel utilization efficiency of weath-  
4                   erized gas furnaces manufactured on or  
5                   after January 1, 2015, shall be not less  
6                   than 81 percent.

7                   “(B) REGIONAL STANDARD.—

8                   “(i) ANNUAL FUEL UTILIZATION EF-  
9                   FICIENCY.—The annual fuel utilization ef-  
10                  ficiency of non-weatherized gas furnaces  
11                  manufactured on or after May 1, 2013,  
12                  and installed in States having historical av-  
13                  erage annual, population weighted, heating  
14                  degree days equal to or greater than 5000  
15                  (specifically the States of Alaska, Colorado,  
16                  Connecticut, Idaho, Illinois, Indiana, Iowa,  
17                  Kansas, Maine, Massachusetts, Michigan,  
18                  Minnesota, Missouri, Montana, Nebraska,  
19                  New Hampshire, New Jersey, New York,  
20                  North Dakota, Ohio, Oregon, Pennsyl-  
21                  vania, Rhode Island, South Dakota, Utah,  
22                  Vermont, Washington, West Virginia, Wis-  
23                  consin, and Wyoming) shall be not less  
24                  than 90 percent.

1           “(ii) APPLICATION OF SUBSECTION  
2           (O)(6).—Subsection (o)(6) shall apply to  
3           the regional standard set forth in this sub-  
4           paragraph.

5           “(C) AMENDMENT OF STANDARDS.—

6           “(i) NON-WEATHERIZED FURNACES.—

7           “(I) IN GENERAL.—Not later  
8           than January 1, 2014, the Secretary  
9           shall publish a final rule to determine  
10          whether the standards in effect for  
11          non-weatherized furnaces should be  
12          amended.

13          “(II) APPLICATION.—The rule  
14          shall provide that any amendments  
15          shall apply to products manufactured  
16          on or after January 1, 2019.

17          “(ii) WEATHERIZED FURNACES.—

18          “(I) IN GENERAL.—Not later  
19          than January 1, 2017, the Secretary  
20          shall publish a final rule to determine  
21          whether the standard in effect for  
22          weatherized furnaces should be  
23          amended.

24          “(II) APPLICATION.—The rule  
25          shall provide that any amendments

1 shall apply to products manufactured  
2 on or after January 1, 2022.

3 “(D) NEW CONSTRUCTION LEVELS.—

4 “(i) IN GENERAL.—As part of any  
5 final rule concerning furnace standards  
6 published after June 1, 2013, the Sec-  
7 retary shall determine if the building code  
8 levels specified in section 327(f)(3)(C)  
9 should be amended subject to meeting the  
10 criteria of subsection (o) when applied spe-  
11 cifically to new construction.

12 “(ii) EFFECTIVE DATE.—Any amend-  
13 ed levels shall not take effect before Janu-  
14 ary 1, 2018.

15 “(iii) AMENDED LEVELS.—The final  
16 rule shall contain the amended levels, if  
17 any.”.

18 (f) EXCEPTION FOR CERTAIN BUILDING CODE RE-  
19 QUIREMENTS.—Section 327(f) of the Energy Policy and  
20 Conservation Act (42 U.S.C. 6297(f)) is amended—

21 (1) in paragraph (3), by striking subparagraphs  
22 (B) through (F) and inserting the following:

23 “(B) The code does not contain a manda-  
24 tory requirement that, under all code compli-  
25 ance paths, requires that the covered product



1           have an energy efficiency exceeding 1 of the fol-  
2           lowing levels:

3                   “(i) The applicable energy conserva-  
4                   tion standard established in or prescribed  
5                   under section 325.

6                   “(ii) The level required by a regula-  
7                   tion of the State for which the Secretary  
8                   has issued a rule granting a waiver under  
9                   subsection (d).

10                  “(C) If the energy consumption or con-  
11                  servation objective in the code is determined  
12                  using covered products, including any baseline  
13                  building designs against which all submitted  
14                  building designs are to be evaluated, the objec-  
15                  tive is based on the use of covered products  
16                  having efficiencies not exceeding—

17                          “(i) for residential furnaces, central  
18                          air conditioners, and heat pumps, effective  
19                          not earlier than January 1, 2013, and  
20                          until such time as a level takes effect for  
21                          the product under clause (ii)—

22                                  “(I) for the States described in  
23                                  section 325(d)(5)(B)(i)—

24    “(aa) 92 percent AFUE for  
25    gas furnaces; and

1                   “(bb) 14 SEER for central  
2                   air conditioners (not including  
3                   heat pumps);

4                   “(II) for the States and other lo-  
5                   calities described in section  
6                   325(d)(4)(B)(i) (except for the States  
7                   of Arizona, California, Nevada, and  
8                   New Mexico)—

9                   “(aa) 90 percent AFUE for  
10                   gas furnaces; and

11                   “(bb) 15 SEER for central  
12                   air conditioners;

13                   “(III) for the States of Arizona,  
14                   California, Nevada, and New Mex-  
15                   ico—

16                   “(aa) 92 percent AFUE for  
17                   gas furnaces;

18                   “(bb) 15 SEER for central  
19                   air conditioners;

20                   “(cc) an EER of 12.5 for  
21                   air conditioners (not including  
22                   heat pumps) with cooling capaci-  
23                   ty less than 45,000 Btu per  
24                   hour; and

1           “(dd) an EER of 12.0 for  
2           air conditioners (not including  
3           heat pumps) with cooling capac-  
4           ity of 45,000 Btu per hour or  
5           more; and

6           “(IV) for all States—

7                 “(aa) 85 percent AFUE for  
8                 oil furnaces; and

9                 “(bb) 15 SEER and 8.5  
10                HSPF for heat pumps;

11               “(ii) the building code levels estab-  
12               lished pursuant to section 325; or

13               “(iii) the applicable standards or lev-  
14               els specified in subparagraph (B).

15           “(D) The credit to the energy consumption  
16           or conservation objective allowed by the code for  
17           installing a covered product having an energy  
18           efficiency exceeding the applicable standard or  
19           level specified in subparagraph (C) is on a 1-  
20           for-1 equivalent energy use or equivalent energy  
21           cost basis, which may take into account the typ-  
22           ical lifetimes of the products and building fea-  
23           tures, using lifetimes for covered products  
24           based on information published by the Depart-  
25           ment of Energy or the American Society of

1 Heating, Refrigerating and Air-Conditioning  
2 Engineers.

3 “(E) If the code sets forth 1 or more com-  
4 binations of items that meet the energy con-  
5 sumption or conservation objective, and if 1 or  
6 more combinations specify an efficiency level for  
7 a covered product that exceeds the applicable  
8 standards and levels specified in subparagraph  
9 (B)—

10 “(i) there is at least 1 combination  
11 that includes such covered products having  
12 efficiencies not exceeding 1 of the stand-  
13 ards or levels specified in subparagraph  
14 (B); and

15 “(ii) if 1 or more combinations of  
16 items specify an efficiency level for a fur-  
17 nace, central air conditioner, or heat pump  
18 that exceeds the applicable standards and  
19 levels specified in subparagraph (B), there  
20 is at least 1 combination that the State  
21 has found to be reasonably achievable  
22 using commercially available technologies  
23 that includes such products having effi-  
24 ciencies at the applicable levels specified in  
25 subparagraph (C), except that no combina-

1           tion need include a product having an effi-  
2           ciency less than the level specified in sub-  
3           paragraph (B)(ii).

4           “(F) The energy consumption or conserva-  
5           tion objective is specified in terms of an esti-  
6           mated total consumption of energy (which may  
7           be specified in units of energy or its equivalent  
8           cost).”;

9           (2) in paragraph (4)(B)—

10           (A) by inserting after “building code” the  
11           first place it appears the following: “contains a  
12           mandatory requirement that, under all code  
13           compliance paths,”; and

14           (B) by striking “unless the” and all that  
15           follows through “subsection (d)”;

16           (3) by adding at the end the following:

17           “(5) REPLACEMENT OF COVERED PRODUCT.—

18           Paragraph (3) shall not apply to the replacement of  
19           a covered product serving an existing building unless  
20           the replacement results in an increase in capacity  
21           greater than—

22           “(A) 12,000 Btu per hour for residential  
23           air conditioners and heat pumps; or

24           “(B) 20 percent for other covered prod-  
25           ucts.”.

1 **SEC. 3. ENERGY CONSERVATION STANDARDS FOR HEAT**  
 2 **PUMP POOL HEATERS.**

3 (a) DEFINITIONS.—

4 (1) EFFICIENCY DESCRIPTOR.—Section  
 5 321(22) of the Energy Policy and Conservation Act  
 6 (42 U.S.C. 6291(22)) is amended—

7 (A) in subparagraph (E), by inserting  
 8 “gas-fired” before “pool heaters”; and

9 (B) by adding at the end the following:

10 “(F) For heat pump pool heaters, coeffi-  
 11 cient of performance of heat pump pool heat-  
 12 ers.”.

13 (2) COEFFICIENT OF PERFORMANCE OF HEAT  
 14 PUMP POOL HEATERS.—Section 321 of the Energy  
 15 Policy and Conservation Act (42 U.S.C. 6291)) is  
 16 amended by inserting after paragraph (25) the fol-  
 17 lowing:

18 “(25A) COEFFICIENT OF PERFORMANCE OF  
 19 HEAT PUMP POOL HEATERS.—The term ‘coefficient  
 20 of performance of heat pump pool heaters’ means  
 21 the ratio of the capacity to power input value ob-  
 22 tained at the following rating conditions: 50.0 °F db/  
 23 44.2 °F wb outdoor air and 80.0 °F entering water  
 24 temperatures, according to AHRI Standard 1160.”.

25 (3) THERMAL EFFICIENCY OF GAS-FIRED POOL  
 26 HEATERS.—Section 321(26) of the Energy Policy

1 and Conservation Act (42 U.S.C. 6291(26)) by in-  
 2 serting “gas-fired” before “pool heaters”.

3 (b) STANDARDS FOR POOL HEATERS.—Section  
 4 325(e)(2) of the Energy Policy and Conservation Act (42  
 5 U.S.C. 6295(e)(2)) is amended—

6 (1) by striking “(2) The thermal efficiency of  
 7 pool heaters” and inserting the following:

8 “(2) POOL HEATERS.—

9 “(A) GAS-FIRED POOL HEATERS.—The  
 10 thermal efficiency of gas-fired pool heaters”;  
 11 and

12 (2) by adding at the end the following:

13 “(B) HEAT PUMP POOL HEATERS.—Heat  
 14 pump pool heaters manufactured on or after  
 15 the date of enactment of this subparagraph  
 16 shall have a minimum coefficient of perform-  
 17 ance of 4.0.”.

18 **SEC. 4. EFFICIENCY STANDARDS FOR CLASS A EXTERNAL**  
 19 **POWER SUPPLIES.**

20 Section 325(u)(3) of the Energy Policy and Con-  
 21 servation Act (42 U.S.C. 6295(u)(3)) is amended—

22 (1) in subparagraph (A), by striking “(D)” and  
 23 inserting “(E)”; and

24 (2) by adding at the end the following:

1           “(E) NONAPPLICATION OF NO-LOAD MODE  
2 ENERGY EFFICIENCY STANDARDS TO EXTERNAL  
3 POWER SUPPLIES FOR CERTAIN SECURITY OR  
4 LIFE SAFETY ALARMS OR SURVEILLANCE SYS-  
5 TEMS.—

6           “(i) DEFINITION OF SECURITY OR  
7 LIFE SAFETY ALARM OR SURVEILLANCE  
8 SYSTEM.—In this subparagraph:

9                   “(I) IN GENERAL.—The term ‘se-  
10 curity or life safety alarm or surveil-  
11 lance system’ means equipment de-  
12 signed and marketed to perform any  
13 of the following functions (on a con-  
14 tinuous basis):

15                           “(aa) Monitor, detect,  
16 record, or provide notification of  
17 intrusion or access to real prop-  
18 erty or physical assets or notifi-  
19 cation of threats to life safety.

20                           “(bb) Deter or control ac-  
21 cess to real property or physical  
22 assets, or prevent the unauthor-  
23 ized removal of physical assets.

24                           “(cc) Monitor, detect,  
25 record, or provide notification of



1 fire, gas, smoke, flooding, or  
2 other physical threats to real  
3 property, physical assets, or life  
4 safety.

5 “(II) EXCLUSION.—The term ‘se-  
6 curity or life safety alarm or surveil-  
7 lance system’ does not include any  
8 product with a principal function  
9 other than life safety, security, or sur-  
10 veillance that—

11 “(aa) is designed and mar-  
12 keted with a built-in alarm or  
13 theft-deterrent feature; or

14 “(bb) does not operate nec-  
15 essarily and continuously in ac-  
16 tive mode.

17 “(ii) NONAPPLICATION OF NO-LOAD  
18 MODE REQUIREMENTS.—The No-Load  
19 Mode energy efficiency standards estab-  
20 lished by this paragraph shall not apply to  
21 an external power supply manufactured be-  
22 fore July 1, 2017, that—

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

1                   “(II) has a nameplate output of  
2                   20 watts or more;

3                   “(III) is certified to the Sec-  
4                   retary as being designed to be con-  
5                   nected to a security or life safety  
6                   alarm or surveillance system compo-  
7                   nent; and

8                   “(IV) on establishment within  
9                   the External Power Supply Inter-  
10                  national Efficiency Marking Protocol,  
11                  as referenced in the ‘Energy Star Pro-  
12                  gram Requirements for Single Voltage  
13                  External Ac–Dc and Ac–Ac Power  
14                  Supplies’, published by the Environ-  
15                  mental Protection Agency, of a distin-  
16                  guishing mark for products described  
17                  in this clause, is permanently marked  
18                  with the distinguishing mark.

19                  “(iii) ADMINISTRATION.—In carrying  
20                  out this subparagraph, the Secretary  
21                  shall—

22                  “(I) require, with appropriate  
23                  safeguard for the protection of con-  
24                  fidential business information, the

1 submission of unit shipment data on  
2 an annual basis; and

3 “(II) restrict the eligibility of ex-  
4 ternal power supplies for the exemp-  
5 tion provided under this subparagraph  
6 on a finding that a substantial num-  
7 ber of the external power supplies are  
8 being marketed to or installed in ap-  
9 plications other than security or life  
10 safety alarm or surveillance systems.”.

11 **SEC. 5. PROHIBITED ACTS.**

12 Section 332(a) of the Energy Policy and Conserva-  
13 tion Act (42 U.S.C. 6302(a)) is amended—

14 (1) in paragraphs (1) and (5), by striking “for  
15 any manufacturer or private labeler to distribute”  
16 each place it appears and inserting “for any manu-  
17 facturer (or representative of a manufacturer), dis-  
18 tributor, retailer, or private labeler to offer for sale  
19 or distribute”;

20 (2) by redesignating paragraph (6) (as added  
21 by section 321(e)(3) of Public Law 110–140 (121  
22 Stat. 1586)) as paragraph (7); and

23 (3) in paragraph (7) (as so redesignated), by  
24 striking “for any manufacturer, distributor, retailer,  
25 or private labeler to distribute” and inserting “for

1 any manufacturer (or representative of a manufac-  
 2 turer), distributor, retailer, or private labeler to offer  
 3 for sale or distribute”.

4 **SEC. 6. OUTDOOR LIGHTING.**

5 (a) DEFINITIONS.—

6 (1) COVERED EQUIPMENT.—Section 340(1) of  
 7 the Energy Policy and Conservation Act (42 U.S.C.  
 8 6311(1)) is amended—

9 (A) by redesignating subparagraph (L) as  
 10 subparagraph (O); and

11 (B) by inserting after subparagraph (K)  
 12 the following:

13 “(L) Pole-mounted outdoor luminaires.

14 “(M) High light output double-ended  
 15 quartz halogen lamps.

16 “(N) General purpose mercury vapor  
 17 lamps.”.

18 (2) INDUSTRIAL EQUIPMENT.—Section  
 19 340(2)(B) of the Energy Policy and Conservation  
 20 Act (42 U.S.C. 6311(2)(B)) is amended—

21 (A) by striking “and” before “unfired hot  
 22 water”; and

23 (B) by inserting after “tanks” the fol-  
 24 lowing: “, pole-mounted outdoor luminaires,  
 25 high light output double-ended quartz halogen

1 lamps, and general purpose mercury vapor  
2 lamps”.

3 (3) NEW DEFINITIONS.—Section 340 of the  
4 Energy Policy and Conservation Act (42 U.S.C.  
5 6311) is amended by adding at the end the fol-  
6 lowing:

7 “(24) AREA LUMINAIRE.—The term ‘area lumi-  
8 naire’ means a luminaire intended for lighting park-  
9 ing lots and general areas that—

10 “(A) is designed to mount on a pole using  
11 an arm, pendant, or vertical tenon;

12 “(B) has an opaque top or sides, but may  
13 contain a transmissive ornamental element;

14 “(C) has an optical aperture that is open  
15 or enclosed with a flat, sag, or drop lens;

16 “(D) is mounted in a fixed position with  
17 the optical aperture near horizontal, or tilted  
18 up; and

19 “(E) has photometric output measured  
20 using Type C photometry per IESNA LM-75-  
21 01.

22 “(25) DECORATIVE POSTTOP LUMINAIRE.—The  
23 term ‘decorative posttop luminaire’ means a lumi-  
24 naire with—

1           “(A) open or transmissive sides that is de-  
2           signed to be mounted directly over a pole using  
3           a vertical tenon or by fitting the luminaire di-  
4           rectly into the pole; and

5           “(B) photometric output measured using  
6           Type C photometry per IESNA LM-75-01.

7           “(26) DUSK-TO-DAWN LUMINAIRE.—The term  
8           ‘dusk-to-dawn luminaire’ means a fluorescent, induc-  
9           tion, or high intensity discharge luminaire that—

10           “(A) is designed to be mounted on a hori-  
11           zontal or horizontally slanted tenon or arm;

12           “(B) has an optical assembly that is co-  
13           axial with the axis of symmetry of the light  
14           source;

15           “(C) has an optical assembly that is—

16           “(i) a reflector or lamp enclosure that  
17           surrounds the light source with an open  
18           lower aperture; or

19           “(ii) a refractive optical assembly sur-  
20           rounding the light source with an open or  
21           closed lower aperture;

22           “(D) contains a receptacle for a  
23           photocontrol that enables the operation of the  
24           light source and is either coaxial with both the  
25           axis of symmetry of the light source and the op-

1 tical assembly or offset toward the mounting  
2 bracket by less than 3 inches, or contains an in-  
3 tegral photocontrol; and

4 “(E) has photometric output measured  
5 using Type C photometry per IESNA LM-75-  
6 01.

7 “(27) FLOODLIGHT LUMINAIRE.—The term  
8 ‘floodlight luminaire’ means an outdoor luminaire  
9 designed with a yoke, knuckle, or other mechanism  
10 allowing the luminaire to be aimed 40 degrees or  
11 more with its photometric distributions established  
12 with only Type B photometry in accordance with  
13 IESNA LM-75, revised 2001.

14 “(28) GENERAL PURPOSE MERCURY VAPOR  
15 LAMP.—The term ‘general purpose mercury vapor  
16 lamp’ means a mercury vapor lamp (as defined in  
17 section 321) that—

18 “(A) has a screw base;

19 “(B) is designed for use in general lighting  
20 applications (as defined in section 321);

21 “(C) is not a specialty application mercury  
22 vapor lamp; and

23 “(D) is designed to operate on a mercury  
24 vapor lamp ballast (as defined in section 321)  
25 or is a self- ballasted lamp.

1           “(29) HIGH LIGHT OUTPUT DOUBLE-ENDED  
2 QUARTZ HALOGEN LAMP.—The term ‘high light out-  
3 put double-ended quartz halogen lamp’ means a  
4 lamp that—

5           “(A) is designed for general outdoor light-  
6 ing purposes;

7           “(B) contains a tungsten filament;

8           “(C) has a rated initial lumen value of  
9 greater than 6,000 and less than 40,000  
10 lumens;

11           “(D) has at each end a recessed single  
12 contact, R7s base;

13           “(E) has a maximum overall length (MOL)  
14 between 4 and 11 inches;

15           “(F) has a nominal diameter less than  $\frac{3}{4}$   
16 inch (T6);

17           “(G) is designed to be operated at a volt-  
18 age not less than 110 volts and not greater  
19 than 200 volts or is designed to be operated at  
20 a voltage between 235 volts and 300 volts;

21           “(H) is not a tubular quartz infrared heat  
22 lamp; and

23           “(I) is not a lamp marked and marketed  
24 as a Stage and Studio lamp with a rated life of  
25 500 hours or less.



1           “(30) MEAN RATED LAMP LUMENS.—The term  
2           ‘mean rated lamp lumens’ means the rated lumens  
3           at—

4                   “(A) 40 percent of rated lamp life for  
5           metal halide, induction, and fluorescent lamps;  
6           or

7                   “(B) 50 percent of rated lamp life for high  
8           pressure sodium lamps.

9           “(31) OUTDOOR LUMINAIRE.—The term ‘out-  
10          door luminaire’ means a luminaire that—

11                   “(A) is intended for outdoor use and suit-  
12          able for wet locations; and

13                   “(B) may be shipped with or without a  
14          lamp.

15          “(32) POLE-MOUNTED OUTDOOR LUMINAIRE.—

16                   “(A) IN GENERAL.—The term ‘pole-mount-  
17          ed outdoor luminaire’ means an outdoor lumi-  
18          naire that is designed to be mounted on an out-  
19          door pole and is—

20                           “(i) an area luminaire;

21                           “(ii) a roadway and highmast lumi-  
22          naire;

23                           “(iii) a decorative posttop luminaire;

24                   or

25                           “(iv) a dusk-to-dawn luminaire.

- 1                   “(B) EXCLUSIONS.—The term ‘pole-
- 2                   mounted outdoor luminaire’ does not include—
- 3                   “(i) a portable luminaire designed for
- 4                   use at construction sites;
- 5                   “(ii) a luminaire designed to be used
- 6                   in emergency conditions that—
- 7                   “(I) incorporates a means of
- 8                   storing energy and a device to switch
- 9                   the stored energy supply to emergency
- 10                  lighting loads automatically on failure
- 11                  of the normal power supply; and
- 12                  “(II) is listed and labeled as
- 13                  Emergency Lighting Equipment;
- 14                  “(iii) a decorative gas lighting system;
- 15                  “(iv) a luminaire designed explicitly
- 16                  for lighting for theatrical purposes, includ-
- 17                  ing performance, stage, film production,
- 18                  and video production;
- 19                  “(v) a luminaire designed as theme
- 20                  elements in theme or amusement parks
- 21                  and that cannot be used in most general
- 22                  lighting applications;
- 23                  “(vi) a luminaire designed explicitly
- 24                  for hazardous locations meeting the re-
- 25                  quirements of Underwriters Laboratories

1 Standard 844—2006, ‘Luminaires for Use  
2 in Hazardous (Classified) Locations’;

3 “(vii) a residential pole-mounted lumi-  
4 naire that is not rated for commercial use  
5 utilizing 1 or more lamps meeting the en-  
6 ergy conservation standards established  
7 under section 325(i) and mounted on a  
8 post or pole not taller than 10.5 feet above  
9 ground and not rated for a power draw of  
10 more than 145 watts;

11 “(viii) a floodlight luminaire;

12 “(ix) an outdoor luminaire designed  
13 for sports and recreational area use in ac-  
14 cordance with IESNA RP-6 and utilizing  
15 an 875 watt or greater metal halide lamp;

16 “(x) a decorative posttop luminaire  
17 designed for using high intensity discharge  
18 lamps with total lamp wattage of 150 or  
19 less, or designed for using other lamp  
20 types with total lamp wattage of 50 watts  
21 or less;

22 “(xi) an area luminaire, roadway and  
23 highmast luminaire, or dusk-to-dawn lumi-  
24 naire designed for using high intensity dis-  
25 charge lamps or pin-based compact fluores-

1 cent lamps with total lamp wattage of 100  
2 or less, or other lamp types with total lamp  
3 wattage of 50 watts or less; and

4 “(xii) an area luminaire, roadway and  
5 highmast luminaire, or dusk-to-dawn lumi-  
6 naire with a backlight rating less than 2  
7 and with the maximum of the uplight or  
8 glare rating 3 or less.

9 “(33) ROADWAY AND HIGHMAST LUMINAIRE.—

10 The term ‘roadway and highmast luminaire’ means  
11 a luminaire intended for lighting streets and road-  
12 ways that—

13 “(A) is designed to mount on a pole by  
14 clamping onto the exterior of a horizontal or  
15 horizontally slanted, circular cross-section pipe  
16 tenon;

17 “(B) has opaque tops or sides;

18 “(C) has an optical aperture that is open  
19 or enclosed with a flat, sag or drop lens;

20 “(D) is mounted in a fixed position with  
21 the optical aperture near horizontal, or tilted  
22 up; and

23 “(E) has photometric output measured  
24 using Type C photometry per IESNA LM-75-  
25 01.

1           “(34) SPECIALTY APPLICATION MERCURY  
2 VAPOR LAMP.—The term ‘specialty application mer-  
3 cury vapor lamp’ means a mercury vapor lamp (as  
4 defined in section 321) that is—

5           “(A) designed only to operate on a spe-  
6 cialty application mercury vapor lamp ballast  
7 (as defined in section 321); and

8           “(B) is marked and marketed for specialty  
9 applications only.

10          “(35) TARGET EFFICACY RATING.—The term  
11 ‘target efficacy rating’ means a measure of luminous  
12 efficacy of a luminaire (as defined in NEMA LE-6-  
13 2009).

14          “(36) TUBULAR QUARTZ INFRARED HEAT  
15 LAMP.—The term ‘tubular quartz infrared heat  
16 lamp’ means a double-ended quartz halogen lamp  
17 that—

18           “(A) is marked and marketed as an infra-  
19 red heat lamp; and

20           “(B) radiates predominately in the infra-  
21 red radiation range and in which the visible ra-  
22 diation is not of principle interest.”.

23          (b) STANDARDS.—Section 342 of the Energy Policy  
24 and Conservation Act (42 U.S.C. 6313) is amended by  
25 adding at the end the following:

1 “(g) POLE-MOUNTED OUTDOOR LUMINAIRES.—

2 “(1) TARGET EFFICACY RATING, LUMEN MAIN-  
 3 TENANCE AND POWER FACTOR REQUIREMENTS.—

4 “(A) DEFINITION OF MAXIMUM OF  
 5 UPLIGHT OR GLARE RATING.—In this para-  
 6 graph, the term ‘maximum of uplight or glare  
 7 rating’ means, for any specific outdoor lumi-  
 8 naire, the higher of the uplight rating or glare  
 9 rating of the luminaire.

10 “(B) REQUIREMENTS.—Each pole-mount-  
 11 ed outdoor luminaire manufactured on or after  
 12 the date that is 3 years after the date of enact-  
 13 ment of this subsection shall—

14 “(i) meet or exceed the target efficacy  
 15 ratings in the following table when tested  
 16 at full system input watts:

“Area, Roadway or Highmast luminaires

Backlight Rating	Maximum of Uplight or Glare rating		
	0 or 1	2 or 3	4 or 5
0 or 1	38	38	38
2 or 3	38	38	42
4 or 5	38	42	43

“Decorative Posttop or Dusk-to-Dawn luminaires

Backlight Rating	Maximum of Uplight or Glare rating		
	0 or 1	2 or 3	4 or 5
0 or 1	25	25	25
2 or 3	25	25	28
4 or 5	25	28	28;

1           “(ii) use lamps that have a minimum  
2           of 0.6 lumen maintenance, as determined  
3           in accordance with IESNA LM-80 for  
4           Solid State Lighting sources or calculated  
5           as mean rated lamp lumens divided by ini-  
6           tial rated lamp lumens for other light  
7           sources; and

8           “(iii) have a power factor equal to or  
9           greater than 0.9 at ballast full power, ex-  
10          cept in the case of pole-mounted outdoor  
11          luminaires designed for using high inten-  
12          sity discharge lamps with a total rated  
13          lamp wattage of 150 watts or less, which  
14          shall have no power factor requirement.

15          “(2) CONTROL REQUIREMENTS.—

16               “(A) IN GENERAL.—Except as provided in  
17               subparagraph (B), each area luminaire manu-  
18               factured on or after the date that is 3 years  
19               after the date of enactment of this subsection  
20               shall be sold—

21                       “(i) with integral controls that shall  
22                       have the capability of operating the lumi-  
23                       naire at full power and a minimum of 1 re-  
24                       duced power level plus off, in which case

1 the power reduction shall be at least 30  
2 percent of the rated lamp power; or

3 “(ii) with internal electronics and con-  
4 nective wiring or hardware (including wire  
5 leads, pigtails, inserts for wires, pin bases,  
6 or the equivalent) that—

7 “(I) collectively enable the area  
8 luminaire, if properly connected to an  
9 appropriate control system, to operate  
10 at full power and a minimum of 1 re-  
11 duced power level plus off, in which  
12 case the reduced power level shall be  
13 at least 30 percent lower than the  
14 rated lamp power in response to sig-  
15 nals sent by controls not integral to  
16 the luminaire as sold, that may be  
17 connected in the field; and

18 “(II) have connections from the  
19 components that are easily accessible  
20 in the luminaire housing and have in-  
21 structions applicable to appropriate  
22 control system connections that are  
23 included with the luminaire.



1           “(B) NONAPPLICATION.—The control re-  
2           quirements of this paragraph shall not apply  
3           to—

4                   “(i) pole-mounted outdoor luminaires  
5                   utilizing probe-start metal halide lamps  
6                   with rated lamp power greater than 500  
7                   watts operating in non-base-up positions;  
8                   or

9                   “(ii) pole-mounted outdoor luminaires  
10                  utilizing induction lamps.

11           “(C) INTEGRAL PHOTSENSORS.—Each  
12           pole-mounted outdoor luminaire sold with an in-  
13           tegral photosensor shall use an electronic-type  
14           photocell.

15           “(3) RULEMAKING COMMENCING NOT LATER  
16           THAN 60 DAYS AFTER THE DATE OF ENACTMENT.—

17                   “(A) IN GENERAL.—Not later than 60  
18                   days after the date of enactment of this sub-  
19                   section, the Secretary shall initiate a rule-  
20                   making procedure to determine whether the  
21                   standards in effect for pole-mounted outdoor  
22                   luminaires should be amended.

23                   “(B) FINAL RULE.—

24                           “(i) PUBLICATION.—The Secretary  
25                           shall publish a final rule containing the

1 amendments, if any, not later than Janu-  
2 ary 1, 2013, or the date that is 33 months  
3 after the date of enactment of this sub-  
4 section, whichever is later.

5 “(ii) APPLICATION.—Any amend-  
6 ments shall apply to products manufac-  
7 tured on or after January 1, 2016, or the  
8 date that is 3 years after the final rule is  
9 published in the Federal Register, which-  
10 ever is later.

11 “(C) REVIEW.—

12 “(i) IN GENERAL.—As part of the  
13 rulemaking required under this paragraph,  
14 the Secretary shall review and may amend  
15 the definitions, exclusions, test procedures,  
16 power factor standards, lumen mainte-  
17 nance requirements, labeling requirements,  
18 and additional control requirements, in-  
19 cluding dimming functionality, for all pole-  
20 mounted outdoor luminaires.

21 “(ii) FACTORS.—The review of the  
22 Secretary shall include consideration of—

23 “(I) obstacles to compliance and  
24 whether compliance is evaded by sub-  
25 stitution of nonregulated luminaires

1 for regulated luminaires or allowing  
2 luminaires to comply with the stand-  
3 ards established under this part based  
4 on use of non-standard lamps, as pro-  
5 vided for in section  
6 343(a)(10)(D)(i)(II);

7 “(II) statistical data relating to  
8 pole-mounted outdoor luminaires  
9 that—

10 “(aa) the Secretary shall re-  
11 quest not later than 120 days  
12 after the date of enactment of  
13 this subsection from all identifi-  
14 able manufacturers of pole-  
15 mounted outdoor luminaires, di-  
16 rectly from manufacturers of  
17 pole-mounted outdoor luminaires  
18 or, in the case of members of the  
19 National Electrical Manufactur-  
20 ers Association, from the Na-  
21 tional Electrical Manufacturers  
22 Association;

23 “(bb) is considered nec-  
24 essary for the rulemaking; and

1           “(cc) shall be made publicly  
2 available in a manner that does  
3 not reveal manufacturer identity  
4 or confidential business informa-  
5 tion, in a timely manner for dis-  
6 cussion at any public proceeding  
7 at which comment is solicited  
8 from the public in connection  
9 with the rulemaking, except that  
10 nothing in this subclause restricts  
11 the Secretary from seeking addi-  
12 tional information during the  
13 course of the rulemaking; and

14           “(III) phased-in effective dates  
15 for different types of pole-mounted  
16 outdoor luminaires that are submitted  
17 to the Secretary in the manner pro-  
18 vided for in section 325(p)(4), except  
19 that the phased-in effective dates shall  
20 not be subject to subparagraphs (A)  
21 and (B) of this paragraph.

22           “(4) RULEMAKING BEFORE FEBRUARY 1,  
23 2015.—

24           “(A) IN GENERAL.—Not later than Feb-  
25 ruary 1, 2015, the Secretary shall initiate a

1 rulemaking procedure to determine whether the  
2 standards in effect for pole-mounted outdoor  
3 luminaires should be amended.

4 “(B) FINAL RULE.—

5 “(i) PUBLICATION.—The Secretary  
6 shall publish a final rule containing the  
7 amendments, if any, not later than Janu-  
8 ary 1, 2018.

9 “(ii) APPLICATION.—Any amend-  
10 ments shall apply to products manufac-  
11 tured on or after January 1, 2021.

12 “(C) REVIEW.—

13 “(i) IN GENERAL.—As part of the  
14 rulemaking required under this paragraph,  
15 the Secretary shall review and may amend  
16 the definitions, exclusions, test procedures,  
17 power factor standards, lumen mainte-  
18 nance requirements, labeling requirements,  
19 and additional control requirements, in-  
20 cluding dimming functionality, for all pole-  
21 mounted outdoor luminaires.

22 “(ii) FACTORS.—The review of the  
23 Secretary shall include consideration of—

24 “(I) obstacles to compliance and  
25 whether compliance is evaded by sub-

1           stitution of nonregulated luminaires  
2           for regulated luminaires or allowing  
3           luminaires to comply with the stand-  
4           ards established under this part based  
5           on use of nonstandard lamps, as pro-  
6           vided for in section  
7           343(a)(10)(D)(i)(II);

8           “(II) statistical data relating to  
9           pole-mounted outdoor luminaires  
10          that—

11           “(aa) the Secretary con-  
12           siders necessary for the rule-  
13           making and requests not later  
14           than June 1, 2015, from all iden-  
15           tifiable manufacturers of pole-  
16           mounted outdoor luminaires, di-  
17           rectly from manufacturers of  
18           pole-mounted outdoor luminaires  
19           and, in the case of members of  
20           the National Electrical Manufac-  
21           turers Association, from the Na-  
22           tional Electrical Manufacturers  
23           Association; and

24           “(bb) shall be made publicly  
25           available in a manner that does

1 not reveal manufacturer identity  
2 or confidential business informa-  
3 tion, in a timely manner for dis-  
4 cussion at any public proceeding  
5 at which comment is solicited  
6 from the public in connection  
7 with the rulemaking, except that  
8 nothing in this subclause restricts  
9 the Secretary from seeking addi-  
10 tional information during the  
11 course of the rulemaking; and

12 “(III) phased-in effective dates  
13 for different types of pole-mounted  
14 outdoor luminaires that are submitted  
15 to the Secretary in the manner pro-  
16 vided for in section 325(p)(4), except  
17 that the phased-in effective dates shall  
18 not be subject to subparagraphs (A)  
19 and (B) of this paragraph.

20 “(h) HIGH LIGHT OUTPUT DOUBLE-ENDED QUARTZ  
21 HALOGEN LAMPS.—A high light output double-ended  
22 quartz halogen lamp manufactured on or after January  
23 1, 2016, shall have a minimum efficiency of—

1           “(1) 27 LPW for lamps with a minimum rated  
2           initial lumen value greater than 6,000 and a max-  
3           imum initial lumen value of 15,000; and

4           “(2) 34 LPW for lamps with a rated initial  
5           lumen value greater than 15,000 and less than  
6           40,000.

7           “(i) GENERAL PURPOSE MERCURY VAPOR LAMPS.—  
8           A general purpose mercury vapor lamp shall not be manu-  
9           factured on or after January 1, 2016.”.

10          (c) TEST METHODS.—Section 343(a) of the Energy  
11          Policy and Conservation Act (42 U.S.C. 6314(a)) is  
12          amended by adding at the end the following:

13                       “(10)           POLE-MOUNTED           OUTDOOR  
14          LUMINAIRES.—

15                       “(A) IN GENERAL.—With respect to pole-  
16                       mounted outdoor luminaires to which standards  
17                       are applicable under section 342, the test meth-  
18                       ods shall be those described in this paragraph.

19                       “(B) PHOTOMETRIC TEST METHODS.—For  
20                       photometric test methods, the methods shall be  
21                       those specified in—

22                               “(i)     IES     LM-10-96—Approved  
23                               Method for Photometric Testing of Out-  
24                               door Fluorescent Luminaires;



1                   “(ii) IES LM-31-95—Photometric  
2                   Testing of Roadway Luminaires Using In-  
3                   candescent Filament and High Intensity  
4                   Discharge Lamps;

5                   “(iii) IES LM-79-08—Electrical and  
6                   Photometric Measurements of Solid-State  
7                   Lighting Products;

8                   “(iv) IES LM-80-08—Measuring  
9                   Lumen Maintenance of LED Light  
10                  Sources;

11                  “(v) IES LM-40-01—Life testing of  
12                  Fluorescent Lamps;

13                  “(vi) IES LM-47-01—Life testing of  
14                  High Intensity Discharge (HID) Lamps;

15                  “(vii) IES LM-49-01—Life testing of  
16                  Incandescent Filament Lamps;

17                  “(viii) IES LM-60-01—Life testing  
18                  of Low Pressure Sodium Lamps; and

19                  “(ix) IES LM-65-01—Life testing of  
20                  Compact Fluorescent Lamps.

21                  “(C) OUTDOOR BACKLIGHT, UPLIGHT, AND  
22                  GLARE RATINGS.—For determining outdoor  
23                  backlight, uplight, and glare ratings, the classi-  
24                  fications shall be those specified in IES TM-

1 15-07—Luminaire Classification System for  
2 Outdoor Luminaires with Addendum A.

3 “(D) TARGET EFFICACY RATING.—For de-  
4 termining the target efficacy rating, the proce-  
5 dures shall be those specified in NEMA LE-6-  
6 2009—‘Procedure for Determining Target Effi-  
7 cacy Ratings (TER) for Commercial, Industrial  
8 and Residential Luminaires,’ and all of the fol-  
9 lowing additional criteria (as applicable):

10 “(i) The target efficacy rating shall be  
11 calculated based on the initial rated lamp  
12 lumen and rated watt value equivalent to  
13 the lamp with which the luminaire is  
14 shipped, or, if not shipped with a lamp, the  
15 target efficacy rating shall be calculated  
16 based on—

17 “(I) the applicable standard lamp  
18 as established by subparagraph (E);  
19 or

20 “(II) a lamp that has a rated  
21 wattage and rated initial lamp lumens  
22 that are the same as the maximum  
23 lamp watts and minimum lamp  
24 lumens labeled on the luminaire, in  
25 accordance with section 344(f).

1           “(ii) If the luminaire is designed to  
2           operate at more than 1 nominal input volt-  
3           age, the ballast input watts used in the  
4           target efficacy rating calculation shall be  
5           the highest value for any nominal input  
6           voltage for which the ballast is designed to  
7           operate.

8           “(iii) If the luminaire is a pole-mount-  
9           ed outdoor luminaire that contains a bal-  
10          last that is labeled to operate lamps of  
11          more than 1 wattage, the luminaire shall—

12                   “(I) meet or exceed the target ef-  
13                   ficacy rating in the table in section  
14                   342(g)(1)(A) calculated in accordance  
15                   with clause (i) for all lamp wattages  
16                   that the ballast is labeled to operate;

17                   “(II) be constructed such that  
18                   the luminaire is only capable of ac-  
19                   cepting lamp wattages that produce  
20                   target efficacy ratings that meet or  
21                   exceed the values in the table in sec-  
22                   tion 342(g)(1)(A) calculated in ac-  
23                   cordance with clause (i); or

24                   “(III) be rated and prominently  
25                   labeled for a maximum lamp wattage

1                   that results in the luminaire meeting  
2                   or exceeding the target efficacy rating  
3                   in the table in section 342(g)(1)(A)  
4                   when calculated and labeled in accord-  
5                   ance with clause (i).

6                   “(iv) If the luminaire is a pole-mount-  
7                   ed outdoor luminaire that is constructed  
8                   such that the luminaire will only accept an  
9                   ANSI Type-O lamp, the luminaire shall  
10                  meet or exceed the target efficacy rating in  
11                  the table in section 342(g)(1)(A) when  
12                  tested with an ANSI Type-O lamp.

13                  “(v) If the luminaire is a pole-mount-  
14                  ed outdoor luminaire that is marketed to  
15                  use a coated lamp, the luminaire shall  
16                  meet or exceed the target efficacy rating in  
17                  the table in section 342(g)(1)(A) when  
18                  tested with a coated lamp.

19                  “(vi) If the luminaire is a solid state  
20                  lighting pole-mounted outdoor luminaire,  
21                  the luminaire shall have its target efficacy  
22                  rating calculated based on the combination  
23                  of absolute luminaire lumen values and  
24                  input wattages that results in the lowest  
25                  possible target efficacy rating for any light

1 source, including ranges of correlated color  
2 temperature and color rendering index val-  
3 ues, for which the luminaire is marketed  
4 by the luminaire manufacturer.

5 “(vii) If the luminaire is a high inten-  
6 sity discharge pole-mounted outdoor lumi-  
7 naire using a ballast that has a ballast fac-  
8 tor different than 1, the target efficacy  
9 rating of the luminaire shall be calculated  
10 by using the input watts needed to operate  
11 the lamp at full rated power, or by using  
12 the actual ballast factor of the ballast.

13 “(E) TABLE OF STANDARD LAMP TYPES.—

14 “(i) IN GENERAL.—The National  
15 Electrical Manufacturers Association shall  
16 develop and publish not later than 1 year  
17 after the date of enactment of this para-  
18 graph and thereafter maintain and regu-  
19 larly update on a publicly available website  
20 a table including standard lamp types by  
21 wattage, ANSI code, initial lamp lumen  
22 value, lamp orientation, and lamp finish.

23 “(ii) INITIAL LAMP LUMEN VALUES.—  
24 The initial lamp lumen values shall—

1           “(I) be determined according to a  
2           uniform rating method and tested ac-  
3           cording to accepted industry practice  
4           for each lamp that is considered for  
5           inclusion in the table; and

6           “(II) in each case contained in  
7           the table, be the lowest known initial  
8           lamp lumen value that approximates  
9           typical performance in representative  
10          general outdoor lighting applications.

11          “(iii) ACTIONS.—On completion of the  
12          table required by this subparagraph and  
13          any updates to the table—

14                 “(I) the National Electrical Man-  
15                 ufacturers Association shall submit  
16                 the table and any updates to the Sec-  
17                 retary; and

18                 “(II) the Secretary shall—

19                         “(aa) publish the table and  
20                         any comments that are included  
21                         with the table in the Federal  
22                         Register;

23                         “(bb) solicit public comment  
24                         on the table; and

1           “(cc) not later than 180  
2           days after date of receipt of the  
3           table, after considering the fac-  
4           tors described in clause (iv),  
5           adopt the table for purposes of  
6           this part.

7           “(iv) REBUTTABLE PRESUMPTION.—

8           “(I) IN GENERAL.—There shall  
9           be a rebuttable presumption that the  
10          table and any updates to the table  
11          transmitted by the National Electrical  
12          Manufacturers Association to the Sec-  
13          retary meets the requirements of this  
14          subparagraph, which may be rebutted  
15          only if the Secretary finds by clear  
16          and substantial evidence that—

17               “(aa) data have been in-  
18               cluded that were not the result of  
19               having applied applicable indus-  
20               try standards; or

21               “(bb) lamps have been in-  
22               cluded in the table that are not  
23               representative of general outdoor  
24               lighting applications.

1                   “(II) CONFORMING CHANGES.—

2                   If subclause (I) applies, the National  
3                   Electrical Manufacturers Association  
4                   shall conform the published table of  
5                   the Association to the table adopted  
6                   by the Secretary.

7                   “(v) NONTRANSMISSION OF TABLE.—

8                   If the National Electrical Manufacturers  
9                   Association has not submitted the table to  
10                  the Secretary within 1 year after the date  
11                  of enactment of this paragraph, the Sec-  
12                  retary shall develop, publish, and adopt the  
13                  table not later than 18 months after the  
14                  date of enactment of this paragraph and  
15                  update the table regularly.

16                  “(F) AMENDMENT OF TEST METHODS.—

17                  The Secretary may, by rule, adopt new or addi-  
18                  tional test methods for pole-mounted outdoor  
19                  luminaires in accordance with this section.”.

20                  (d) LABELING.—Section 344 of the Energy Policy  
21                  and Conservation Act (42 U.S.C. 6315) is amended—

22                   (1) in subsections (d) and (e), by striking “(h)”  
23                   each place it appears and inserting “(i)”;

24                   (2) by redesignating subsections (f) through (k)  
25                   as subsections (g) through (l), respectively; and



1           (3) by inserting after subsection (e) the fol-  
2           lowing:

3           “(f) LABELING RULES FOR POLE-MOUNTED OUT-  
4 DOOR LUMINAIRES.—

5           “(1) IN GENERAL.—Subject to subsection (i),  
6           not later than 1 year after the date of enactment of  
7           this paragraph, the Secretary shall establish labeling  
8           rules under this part for pole-mounted outdoor  
9           luminaires manufactured on or after the date on  
10          which standards established under section 342(g)  
11          take effect.

12          “(2) RULES.—The rules shall require—

13                 “(A) for pole-mounted outdoor luminaires,  
14                 that the luminaire, be marked with a capital  
15                 letter ‘P’ printed within a circle in a con-  
16                 spicuous location on both the pole-mounted lu-  
17                 minaire and its packaging to indicate that the  
18                 pole-mounted outdoor luminaire conforms to the  
19                 energy conservation standards established in  
20                 section 342(g); and

21                 “(B) for pole-mounted outdoor luminaires  
22                 that do not contain a lamp in the same ship-  
23                 ment with the luminaire and are tested with a  
24                 lamp with a lumen rating exceeding the stand-  
25                 ard lumen value specified in the table estab-

1           lished under section 343(a)(10)(E), that the lu-  
2           minaire—

3                   “(i) be labeled to identify the min-  
4                   imum rated initial lamp lumens and max-  
5                   imum rated lamp watts required to con-  
6                   form to the energy conservation standards  
7                   established in section 342(g); and

8                   “(ii) bear a statement on the label  
9                   that states: ‘Product violates Federal law  
10                  when installed with a standard lamp. Use  
11                  only a lamp that meets the minimum  
12                  lumens and maximum watts provided on  
13                  this label.’”.

14           (e) PREEMPTION.—Section 345 of the Energy Policy  
15 and Conservation Act (42 U.S.C. 6316) is amended—

16                   (1) in the first sentence of subsection (a), by  
17                   striking “The” and inserting “Except as otherwise  
18                   provided in this section, the”; and

19                   (2) by adding at the end the following:

20                   “(i) POLE-MOUNTED OUTDOOR LUMINAIRES AND  
21 HIGH LIGHT OUTPUT DOUBLE-ENDED QUARTZ HALO-  
22 GEN LAMPS.—

23                   “(1) IN GENERAL.—Except as provided in para-  
24                   graph (2), section 327 shall apply to pole-mounted  
25                   outdoor luminaires and high light output double-

1 ended quartz halogen lamps to the same extent and  
2 in the same manner as the section applies under  
3 part B.

4 “(2) STATE ENERGY CONSERVATION STAND-  
5 ARDS.—Any State energy conservation standard that  
6 is adopted on or before January 1, 2015, pursuant  
7 to a statutory requirement to adopt efficiency stand-  
8 ard for reducing outdoor lighting energy use enacted  
9 prior to January 31, 2008, shall not be preempted.”.

10 **SEC. 7. ENERGY EFFICIENCY PROVISIONS.**

11 (a) DIRECT FINAL RULE.—Section 323(b)(1) of the  
12 Energy Policy and Conservation Act (42 U.S.C.  
13 6293(b)(1)) is amended by adding at the end the fol-  
14 lowing:

15 “(B) TEST PROCEDURES.—The Secretary  
16 may, in accordance with the requirements of  
17 this subsection, prescribe test procedures for  
18 any consumer product classified as a covered  
19 product under section 322(b).

20 “(C) NEW OR AMENDED TEST PROCE-  
21 DURES.—The Secretary shall direct the Na-  
22 tional Bureau of Standards to assist in devel-  
23 oping new or amended test procedures.

24 “(D) DIRECT FINAL RULE.—The Secretary  
25 may adopt a consensus test procedure in ac-

1 cordance with the direct final rule procedure es-  
2 tablished under section 325(p)(4).”.

3 (b) CRITERIA FOR PRESCRIBING NEW OR AMENDED  
4 STANDARDS.—Section 325(o) of the Energy Policy and  
5 Conservation Act (42 U.S.C. 6295(o)) is amended—

6 (1) in paragraph (2)(B)—

7 (A) in clause (i)—

8 (i) in subclause (III), by adding before  
9 the semicolon “and the estimated impact  
10 on average energy prices”;

11 (ii) in subclause (VI), by striking “;  
12 and” and inserting a semicolon;

13 (iii) by redesignating subclause (VII)  
14 as subclause (VIII); and

15 (iv) by inserting after subclause (VI)  
16 the following:

17 “(VII) the net energy, environ-  
18 mental, and economic impacts due to  
19 smart grid technologies or capabilities  
20 in a covered product that enable de-  
21 mand response or response to time-de-  
22 pendent energy pricing, taking into  
23 consideration the rate of use of the  
24 smart grid technologies or capabilities  
25 over the life of the product that is

1 likely to result from the imposition of  
2 the standard; and”;

3 (B) in clause (iii)—

4 (i) by striking “(iii) If the Secretary  
5 finds” and inserting the following:

6 “(iii) REBUTTABLE PRESUMPTION.—

7 “(I) IN GENERAL.—Subject to  
8 subclause (II), if the Secretary finds”;

9 (ii) in subclause (I) (as designated by  
10 clause (i)), by striking “three” and insert-  
11 ing “4”; and

12 (iii) by striking the second sentence  
13 and inserting the following:

14 “(II) MULTIPLIER FOR CERTAIN  
15 PRODUCTS.—For any product with an  
16 average expected useful life of less  
17 than 4 years, the rebuttable presump-  
18 tion described in subclause (I) shall be  
19 determined using 75 percent of the  
20 average expected useful life of the  
21 product as a multiplier instead of 4.

22 “(III) REQUIREMENT FOR RE-  
23 BUTTAL OF PRESUMPTION.—A pre-  
24 sumption described in subclause (I)  
25 may be rebutted only if the Secretary

1 finds, based on clear and substantial  
2 evidence, that—

3 “(aa) the standard level  
4 would cause substantial hardship  
5 to the average consumer of the  
6 product, or to manufacturers  
7 supplying a significant portion of  
8 the market for the product, in  
9 terms of manufacturing or prod-  
10 uct cost or loss of product utility  
11 or features, the aggregate of  
12 which outweighs the benefits of  
13 the standard level;

14 “(bb) the standard and im-  
15 plementing regulations cannot  
16 reasonably be designed to avoid  
17 or mitigate any hardship de-  
18 scribed in item (aa) (including  
19 through the adoption of regional  
20 standards for the products identi-  
21 fied in, and consistent with, para-  
22 graph (6) or other reasonable  
23 means consistent with this part)  
24 and the hardship cannot be  
25 avoided or mitigated through the

1 procedures described in section  
2 504 of the Department of Energy  
3 Organization Act (42 U.S.C.  
4 7194); and

5 “(cc) the same or a substan-  
6 tially similar hardship with re-  
7 spect to a hardship described in  
8 item (aa) would not occur under  
9 a standard adopted in the ab-  
10 sence of the presumption, but  
11 that otherwise meets the require-  
12 ments of this section.

13 “(IV) PROHIBITED FACTORS FOR  
14 DETERMINATION.—

15 “(aa) IN GENERAL.—Except  
16 as provided in item (bb), a deter-  
17 mination by the Secretary that  
18 the criteria triggering a presump-  
19 tion described in subclause (I)  
20 are not met, or that the criterion  
21 for rebutting the presumption are  
22 met, shall not be taken into con-  
23 sideration by the Secretary in de-  
24 termining whether a standard is  
25 economically justified.

1                   “(bb)     EXCEPTION.—Evi-  
2                   dence presented regarding the  
3                   presumption may be considered  
4                   by the Secretary in making a de-  
5                   termination described in item  
6                   (aa).”; and

7                   (2) by adding at the end the following:

8                   “(7) INCORPORATION OF SMART GRID TECH-  
9                   NOLOGIES.—The Secretary may incorporate smart  
10                  grid technologies or capabilities into standards under  
11                  this section, including through—

12                  “(A) standards for covered products that  
13                  require specific technologies or capabilities;

14                  “(B) standards that provide credit for  
15                  smart grid technologies or capabilities, to the  
16                  extent the smart grid technologies or capabili-  
17                  ties provide net benefits substantially equivalent  
18                  to benefits of products that meet the standards  
19                  without smart grid technologies or capabilities,  
20                  taking into consideration energy, economic, and  
21                  environmental impacts (including emissions re-  
22                  ductions from electrical generation); and

23                  “(C) multiple performance standards or  
24                  design requirements to achieve—

25                  “(i) the goals of—



1 “(I) reducing overall energy use;  
2 and  
3 “(II) reducing peak demand; or  
4 “(ii) other smart grid goals.”.

5 (c) OBTAINMENT OF APPLIANCE INFORMATION  
6 FROM MANUFACTURERS.—Section 326 of the Energy Pol-  
7 icy and Conservation Act (42 U.S.C. 6296) is amended  
8 by striking subsection (d) and inserting the following:

9 “(d) INFORMATION REQUIREMENTS.—

10 “(1) IN GENERAL.—For purposes of carrying  
11 out this part, the Secretary shall promulgate pro-  
12 posed regulations not later than 1 year after the  
13 date of enactment of the National Energy Efficiency  
14 Enhancement Act of 2010, and after receiving public  
15 comment, final regulations not later than 18 months  
16 after the date of enactment of that Act, under this  
17 part or other provision of law administered by the  
18 Secretary, that shall require each manufacturer of a  
19 covered product, on a product specific basis, to sub-  
20 mit information or reports to the Secretary—

21 “(A) in such form as the Secretary may  
22 adopt; and

23 “(B) on—

24 “(i) an annual basis; or

1                   “(ii) any other regular basis that is  
2                   not less frequent than once every 3 years.

3                   “(2) FORM AND CONTENT OF REPORTS.—The  
4                   form and content of each report required by a man-  
5                   ufacturer of a covered product under paragraph  
6                   (1)—

7                   “(A) may vary by product type, as deter-  
8                   mined by the Secretary; and

9                   “(B) shall include information or data re-  
10                  garding—

11                  “(i) the compliance by the manufac-  
12                  turer with respect to each requirement ap-  
13                  plicable pursuant to this part;

14                  “(ii) the annual shipments by the  
15                  manufacturer of each class or category of  
16                  covered products, subdivided, to the extent  
17                  practicable, by—

18                         “(I) energy efficiency, energy  
19                         use, and, if applicable, water use;

20                         “(II) the presence or absence of  
21                         such efficiency related or energy con-  
22                         suming operational characteristics or  
23                         components as the Secretary deter-  
24                         mines to be relevant for the purposes  
25                         of carrying out this part; and

1                   “(III) the State or regional loca-  
2                   tion of sale for covered products for  
3                   which the Secretary may adopt re-  
4                   gional standards; and

5                   “(iii) such other categories of infor-  
6                   mation that the Secretary determines to be  
7                   relevant to carry out this part, including  
8                   such other information that may be nec-  
9                   essary—

10                   “(I) to establish and revise—

11                       “(aa) test procedures;

12                       “(bb) labeling rules; and

13                       “(cc) energy conservation  
14                   standards;

15                   “(II) to ensure compliance with  
16                   the requirements of this part; and

17                   “(III) to estimate the impacts on  
18                   consumers and manufacturers of en-  
19                   ergy conservation standards in effect  
20                   as of the reporting date.

21                   “(3) REQUIREMENTS OF SECRETARY IN PRO-  
22                   MULGATING REGULATIONS.—In promulgating regu-  
23                   lations under paragraph (1), the Secretary shall con-  
24                   sider—

1           “(A) existing public sources of information,  
2 including nationally recognized certification or  
3 verification programs of trade associations; and

4           “(B)(i) whether some or all of the informa-  
5 tion described in paragraph (2) is submitted to  
6 another Federal agency; and

7           “(ii) the means by which to minimize any  
8 duplication of requests for information by Fed-  
9 eral agencies.

10           “(4) MINIMIZATION OF BURDENS ON MANUFAC-  
11 TURERS.—In carrying out this subsection, the Sec-  
12 retary shall exercise the authority of the Secretary  
13 under this subsection in a manner designed to mini-  
14 mize burdens on the manufacturers of covered prod-  
15 ucts.

16           “(5) REPORTING OF ENERGY INFORMATION.—

17           “(A) IN GENERAL.—Subject to subpara-  
18 graph (B), section 11(d) of the Energy Supply  
19 and Environmental Coordination Act of 1974  
20 (15 U.S.C. 796(d)) shall apply with respect to  
21 information obtained under this subsection to  
22 the same extent and in the same manner as  
23 section 11(d) of that Act applies with respect to  
24 energy information obtained under section 11 of  
25 that Act.

1           “(B) ADMINISTRATION.—Subparagraph  
2           (A) shall apply to the extent that subparagraph  
3           (A) does not conflict with the duties of the Sec-  
4           retary in carrying out this part.

5           “(6) COORDINATION WITH STATE AGENCIES.—  
6           In adopting reporting requirements under paragraph  
7           (1), the Secretary shall, to the extent practicable, co-  
8           ordinate with State agencies that conduct similar  
9           data gathering initiatives—

10           “(A) to ensure the uniformity of the re-  
11           quirements; and

12           “(B) to mitigate reporting burdens.

13           “(7) PERIODIC REVISIONS.—In accordance with  
14           each procedure and criteria required under para-  
15           graph (1), the Secretary may periodically revise the  
16           reporting requirements adopted under paragraph  
17           (1).”.

18           (d) WAIVER OF FEDERAL PREEMPTION.—Section  
19           327(d)(1) of the Energy Policy and Conservation Act (42  
20           U.S.C. 6297(d)(1)) is amended—

21           (1) in subparagraph (B)—

22           (A) by inserting “(i)” before “Subject to  
23           paragraphs”; and

24           (B) by adding at the end the following:



1           “(2) any person from distributing in commerce  
2 any covered product that does not comply with an  
3 applicable rule under section 324 or 325.

4           “(b) AUTHORITY.—

5           “(1) IN GENERAL.—Except as provided in para-  
6 graph (2), an action under subsection (a) shall be  
7 brought by—

8           “(A) the Commission; or

9           “(B) the attorney general of a State in the  
10 name of the State.

11          “(2) EXCEPTIONS.—

12          “(A) IN GENERAL.—Notwithstanding para-  
13 graph (1), only the Secretary may bring an ac-  
14 tion under this section to restrain—

15           “(i) a violation of section 332(a)(3)  
16 relating to a requirement prescribed by the  
17 Secretary; or

18           “(ii) a violation of section 332(a)(4)  
19 relating to a request by the Secretary  
20 under section 326(b)(2).

21          “(B) OTHER PROHIBITED ACTS.—An ac-  
22 tion under this section regarding a violation of  
23 paragraph (5) or (7) of section 332(a) shall be  
24 brought by—

25           “(i) the Secretary; or

1                   “(ii) the attorney general of a State in  
2                   the name of the State.

3           “(c) LIMITATION.—If an action under this section is  
4 brought by the attorney general of a State—

5                   “(1) not less than 30 days before the date of  
6 commencement of the action, the State shall—

7                           “(A) provide written notice to the Sec-  
8 retary and the Commission; and

9                           “(B) provide the Secretary and the Com-  
10 mission with a copy of the complaint;

11                   “(2) the Secretary and the Commission—

12                           “(A) may intervene in the suit or action;

13                           “(B) upon intervening, shall be heard on  
14 all matters arising from the suit or action; and

15                           “(C) may file petitions for appeal;

16                   “(3) no separate action may be brought under  
17 this section if, at the time written notice is provided  
18 under paragraph (1), the same alleged violation or  
19 failure to comply is the subject of a pending action,  
20 or a final judicial judgment or decree, by the United  
21 States under this Act; and

22                   “(4) the action shall not be construed—

23                           “(A) as to prevent the attorney general of  
24 a State, or other authorized officer of the State,  
25 from exercising the powers conferred on the at-



1           torney general, or other authorized officer of  
 2           the State, by the laws of the State (including  
 3           regulations); or

4           “(B) as to prohibit the attorney general of  
 5           a State, or other authorized officer of the State,  
 6           from proceeding in a Federal or State court on  
 7           the basis of an alleged violation of any civil or  
 8           criminal statute of the State.

9           “(d) VENUE; SERVICE OF PROCESS.—

10           “(1) VENUE.—An action under this section  
 11           may be brought in the United States district court  
 12           for—

13           “(A) the district in which the act, omis-  
 14           sion, or transaction constituting the applicable  
 15           violation occurred; or

16           “(B) the district in which the defendant—

17           “(i) resides; or

18           “(ii) transacts business.

19           “(2) SERVICE OF PROCESS.—In an action  
 20           under this section, process may be served on a de-  
 21           fendant in any district in which the defendant re-  
 22           sides or is otherwise located.”.

23           (f) TREATMENT OF APPLIANCES WITHIN BUILDING  
 24           CODES.—Section 327 of the Energy Policy and Conserva-

1 tion Act (42 U.S.C. 6297) is amended by adding at the  
2 end the following:

3       “(h) RECOGNITION OF ALTERNATIVE REFRIGERANT  
4 USES.—With respect to State or local laws (including reg-  
5 ulations) prohibiting, limiting, or restricting the use of al-  
6 ternative refrigerants for specific end uses approved by the  
7 Administrator of the Environmental Protection Agency  
8 pursuant to the Significant New Alternatives Program  
9 under section 612 of the Clean Air Act (42 U.S.C. 7671k)  
10 for use in a covered product under section 322(a)(1) con-  
11 sidered on or after the date of enactment of this sub-  
12 section, notice shall be provided to the Administrator be-  
13 fore or during any State or local public comment period  
14 to provide to the Administrator an opportunity to com-  
15 ment.”.

16       (g) TECHNICAL AMENDMENT.—Section 332(a) of the  
17 Energy Policy and Conservation Act (42 U.S.C. 6302(a))  
18 is amended by redesignating the second paragraph (6) as  
19 paragraph (7).

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