111TH CONGRESS
2D SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

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

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Energy Efficiency Enhancement Act of 2010''.

SEC. 2. ENERGY CONSERVATION STANDARDS.

(a) DEFINITION OF ENERGY CONSERVATION STANDARD.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended—

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

"(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 ac-

cordance 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;

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

"(III) as part of a final rule pub1lished on or after January 1, 2012; 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 com-

ponent is specifically authorized or established pursuant to this title.''; and

(2) by adding at the end the following:

''(66) EER.—The term 'EER' means energy efficiency ratio.

''(67) HSPF.—The term 'HSPF' means heating seasonal performance factor.''.

(b) EER AND HSPF TEST PROCEDURES.—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)) is amended by adding at the end the following:

''(19) EER AND HSPF TEST PROCEDURES.—

''(A) IN GENERAL.—Subject to subparagraph (B), for purposes of residential central air conditioner and heat pump standards that take effect on or before January 1, 2015—

''(i) the EER shall be tested at an outdoor test temperature of 95 degrees Fahrenheit; and

''(ii) the HSPF shall be calculated based on Region IV conditions.

''(B) REVISIONS.—The Secretary may revise the EER outdoor test temperature and the conditions for HSPF calculations as part of any

rulemaking to revise the central air conditioner and heat pump test method.''.

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

''(4) CENTRAL AIR CONDITIONERS AND HEAT PUMPS (EXCEPT THROUGH-THE-WALL CENTRAL AIR CONDITIONERS, THROUGH-THE-WALL CENTRAL AIR CONDITIONING HEAT PUMPS, AND SMALL DUCT, HIGH VELOCITY SYSTEMS) MANUFACTURED ON OR AFTER JANUARY 1, 2015.—

''(A) BASE NATIONAL STANDARDS.—

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

''(I) Split Systems: 13 for central air conditioners and 14 for heat pumps.

''(II) Single Package Systems: 14.

''(ii) HEATING SEASONAL PERFORMANCE FACTOR.—The heating seasonal performance factor of central air conditioning heat pumps manufactured on or after January 1, 2015, shall not be less than the following:

''(I) Split Systems: 8.2.

''(II) Single Package Systems: 8.0.

''(B) REGIONAL STANDARDS.—

''(i) SEASONAL ENERGY EFFICIENCY RATIO.—The seasonal energy efficiency ratio of central air conditioners and central air conditioning heat pumps manufactured on or after January 1, 2015, and installed in States having historical average annual, population weighted, heating degree days less than 5,000 (specifically the States of Alabama, Arizona, Arkansas, California, Delaware, Florida, Georgia, Hawaii, Kentucky, Louisiana, Maryland, Mississippi, Nevada, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia) or in the District of Columbia, the Commonwealth of Puerto

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

''(I) Split Systems: 14 for central air conditioners and 14 for heat pumps.

''(II) Single Package Systems: 14.

''(ii) ENERGY EFFICIENCY RATIO.—The energy efficiency ratio of central air conditioners (not including heat pumps) manufactured on or after January 1, 2015, and installed in the State of Arizona, California, New Mexico, or Nevada shall be not less than the following:

''(I) Split Systems: 12.2 for split systems having a rated cooling capacity less than 45,000 BTU per hour and 11.7 for products having a rated cooling capacity equal to or greater than 45,000 BTU per hour.

''(II) Single Package Systems: 11.0.

''(iii) APPLICATION OF SUBSECTION (O)(6).—Subsection (o)(6) shall apply to

the regional standards set forth in this subparagraph.

''(C) AMENDMENT OF STANDARDS.—

''(i) IN GENERAL.—Not later than January 1, 2017, the Secretary shall publish a final rule to determine whether the standards in effect for central air conditioners and central air conditioning heat pumps should be amended.

''(ii) APPLICATION.—The rule shall provide that any amendments shall apply to products manufactured on or after January 1, 2022.

''(D) CONSIDERATION OF ADDITIONAL PERFORMANCE STANDARDS OR EFFICIENCY CRITERIA.—

''(i) FORUM.—Not later than 4 years in advance of the expected publication date of a final rule for central air conditioners and heat pumps under subparagraph (C), the Secretary shall convene and facilitate a forum for interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of the covered product, States, and effi-

ciency advocates), as determined by the Secretary, to consider adding additional performance standards or efficiency criteria in the forthcoming rule.

"(ii) RECOMMENDATION.—If, within 1 year of the initial convening of such a forum, the Secretary receives a recommendation submitted jointly by such representative interested persons to add 1 or more performance standards or efficiency criteria, the Secretary shall incorporate the performance standards or efficiency criteria in the rulemaking process, and, if justified under the criteria established in this section, incorporate such performance standards or efficiency criteria in the revised standard.

"(iii) NO RECOMMENDATION.—If no such joint recommendation is made within 1 year of the initial convening of such a forum, the Secretary may add additional performance standards or efficiency criteria if the Secretary finds that the benefits substantially exceed the burdens of the action.

''(E) NEW CONSTRUCTION LEVELS.—

''(i) IN GENERAL.—As part of any final rule concerning central air conditioner and heat pump standards published after June 1, 2013, the Secretary shall determine if the building code levels specified in section 327(f)(3)(C) should be amended subject to meeting the criteria of subsection (o) when applied specifically to new construction.

''(ii) EFFECTIVE DATE.—Any amended levels shall not take effect before January 1, 2018.

''(iii) AMENDED LEVELS.—The final rule shall contain the amended levels, if any.''.

(d) THROUGH-THE-WALL CENTRAL AIR CONDITIONERS, THROUGH-THE-WALL CENTRAL AIR CONDITIONING HEAT PUMPS, AND SMALL DUCT, HIGH VELOCITY SYSTEMS.—Section 325(d) of the Energy Policy and Conservation Act (42 U.S.C. 6295(d)) (as amended by subsection (c)) is amended by adding at the end the following:

''(5) STANDARDS FOR THROUGH-THE-WALL CENTRAL AIR CONDITIONERS, THROUGH-THE-WALL

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

''(A) DEFINITIONS.—In this paragraph:

''(i) SMALL DUCT, HIGH VELOCITY SYSTEM.—The term 'small duct, high velocity system' means a heating and cooling product that contains a blower and indoor coil combination that—

''(I) is designed for, and produces, at least 1.2 inches of external static pressure when operated at the certified air volume rate of 220–350 CFM per rated ton of cooling; and

''(II) when applied in the field, uses high velocity room outlets generally greater than 1,000 fpm that have less than 6.0 square inches of free area.

''(ii) THROUGH-THE-WALL CENTRAL AIR CONDITIONER; THROUGH-THE-WALL CENTRAL AIR CONDITIONING HEAT PUMP.—The terms 'through-the-wall central air conditioner' and 'through-the-wall central air conditioning heat pump' mean a central air conditioner or heat pump, re-

spectively, that is designed to be installed totally or partially within a fixed-size opening in an exterior wall, and—

"(I) is not weatherized;

"(II) is clearly and permanently marked for installation only through an exterior wall;

"(III) has a rated cooling capacity no greater than 30,000 Btu/hr;

"(IV) exchanges all of its outdoor air across a single surface of the equipment cabinet; and

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

"(iii) REVISION.—The Secretary may revise the definitions contained in this subparagraph through publication of a final rule.

"(B) RULEMAKING.—

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

a final rule to determine whether standards for through-the-wall central air conditioners, through-the-wall central air conditioning heat pumps and small duct, high velocity systems should be established or amended.

''(ii) APPLICATION.—The rule shall provide that any new or amended standard shall apply to products manufactured on or after June 30, 2016.''.

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

''(5) NON-WEATHERIZED FURNACES (INCLUDING MOBILE HOME FURNACES, BUT NOT INCLUDING BOILERS) MANUFACTURED ON OR AFTER MAY 1, 2013, AND WEATHERIZED FURNACES MANUFACTURED ON OR AFTER JANUARY 1, 2015.—

''(A) BASE NATIONAL STANDARDS.—

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

''(I) Gas furnaces: 80 percent.

"(II) Oil furnaces: 83 percent.

"(ii) WEATHERIZED FURNACES.—The annual fuel utilization efficiency of weatherized gas furnaces manufactured on or after January 1, 2015 shall be not less than 81 percent.

"(B) REGIONAL STANDARD.—

"(i) ANNUAL FUEL UTILIZATION EFFICIENCY.—The annual fuel utilization efficiency of non-weatherized gas furnaces manufactured on or after May 1, 2013, and installed in States having historical average annual, population weighted, heating degree days equal to or greater than 5000 (specifically the States of Alaska, Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia, Wisconsin, and Wyoming) shall be not less than 90 percent.

''(ii) APPLICATION OF SUBSECTION (O)(6).—Subsection (o)(6) shall apply to the regional standard set forth in this subparagraph.

''(C) AMENDMENT OF STANDARDS.—

''(i) NON-WEATHERIZED FURNACES.—

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

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

''(ii) WEATHERIZED FURNACES.—

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

''(II) APPLICATION.—The rule shall provide that any amendments

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

''(D) NEW CONSTRUCTION LEVELS.—

''(i) IN GENERAL.—As part of any final rule concerning furnace standards published after June 1, 2013, the Secretary shall determine if the building code levels specified in section 327(f)(3)(C) should be amended subject to meeting the criteria of subsection (o) when applied specifically to new construction.

''(ii) EFFECTIVE DATE.—Any amended levels shall not take effect before January 1, 2018.

''(iii) AMENDED LEVELS.—The final rule shall contain the amended levels, if any.''.

(f) EXCEPTION FOR CERTAIN BUILDING CODE REQUIREMENTS.—Section 327(f) of the Energy Policy and Conservation Act (42 U.S.C. 6297(f)) is amended—

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

''(B) The code does not contain a mandatory requirement that, under all code compliance paths, requires that the covered product

have an energy efficiency exceeding 1 of the following levels:

"(i) The applicable energy conservation standard established in or prescribed under section 325.

"(ii) The level required by a regulation of the State for which the Secretary has issued a rule granting a waiver under subsection (d).

"(C) If the energy consumption or conservation objective in the code is determined using covered products, including any baseline building designs against which all submitted building designs are to be evaluated, the objective is based on the use of covered products having efficiencies not exceeding—

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

"(I) for the States described in section 325(d)(5)(B)(i)—

"(aa) 92 percent AFUE for gas furnaces; and

"(bb) 14 SEER for central air conditioners (not including heat pumps);

"(II) for the States and other localities described in section 325(d)(4)(B)(i) (except for the States of Arizona, California, Nevada, and New Mexico)—

"(aa) 90 percent AFUE for gas furnaces; and

"(bb) 15 SEER for central air conditioners;

"(III) for the States of Arizona, California, Nevada, and New Mexico—

"(aa) 92 percent AFUE for gas furnaces;

"(bb) 15 SEER for central air conditioners;

"(cc) an EER of 12.5 for air conditioners (not including heat pumps) with cooling capacity less than 45,000 Btu per hour; and

"(dd) an EER of 12.0 for air conditioners (not including heat pumps) with cooling capacity of 45,000 Btu per hour or more; and

"(IV) for all States—

"(aa) 85 percent AFUE for oil furnaces; and

"(bb) 15 SEER and 8.5 HSPF for heat pumps;

"(ii) the building code levels established pursuant to section 325; or

"(iii) the applicable standards or levels specified in subparagraph (B).

"(D) The credit to the energy consumption or conservation objective allowed by the code for installing a covered product having an energy efficiency exceeding the applicable standard or level specified in subparagraph (C) is on a 1-for-1 equivalent energy use or equivalent energy cost basis, which may take into account the typical lifetimes of the products and building features, using lifetimes for covered products based on information published by the Department of Energy or the American Society of

Heating, Refrigerating and Air-Conditioning Engineers.

''(E) If the code sets forth 1 or more combinations of items that meet the energy consumption or conservation objective, and if 1 or more combinations specify an efficiency level for a covered product that exceeds the applicable standards and levels specified in subparagraph (B)—

''(i) there is at least 1 combination that includes such covered products having efficiencies not exceeding 1 of the standards or levels specified in subparagraph (B); and

''(ii) if 1 or more combinations of items specify an efficiency level for a furnace, central air conditioner, or heat pump that exceeds the applicable standards and levels specified in subparagraph (B), there is at least 1 combination that the State has found to be reasonably achievable using commercially available technologies that includes such products having efficiencies at the applicable levels specified in subparagraph (C), except that no combina-

tion need include a product having an efficiency less than the level specified in subparagraph (B)(ii).

''(F) The energy consumption or conservation objective is specified in terms of an estimated total consumption of energy (which may be specified in units of energy or its equivalent cost).'';

(2) in paragraph (4)(B)—

(A) by inserting after ''building code'' the first place it appears the following: ''contains a mandatory requirement that, under all code compliance paths,''; and

(B) by striking ''unless the'' and all that follows through ''subsection (d)''; and

(3) by adding at the end the following:

''(5) REPLACEMENT OF COVERED PRODUCT.—Paragraph (3) shall not apply to the replacement of a covered product serving an existing building unless the replacement results in an increase in capacity greater than—

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

''(B) 20 percent for other covered products.''.

SEC. 3. ENERGY CONSERVATION STANDARDS FOR HEAT PUMP POOL HEATERS.

(a) DEFINITIONS.—

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

(A) in subparagraph (E), by inserting ''gas-fired'' before ''pool heaters''; and

(B) by adding at the end the following:

''(F) For heat pump pool heaters, coefficient of performance of heat pump pool heaters.''.

(2) COEFFICIENT OF PERFORMANCE OF HEAT PUMP POOL HEATERS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291)) is amended by inserting after paragraph (25) the following:

''(25A) COEFFICIENT OF PERFORMANCE OF HEAT PUMP POOL HEATERS.—The term 'coefficient of performance of heat pump pool heaters' means the ratio of the capacity to power input value obtained at the following rating conditions: 50.0°F db/ 44.2°F wb outdoor air and 80.0°F entering water temperatures, according to AHRI Standard 1160.''.

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

and Conservation Act (42 U.S.C. 6291(26)) by inserting ''gas-fired'' before ''pool heaters''.

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

(1) by striking ''(2) The thermal efficiency of pool heaters'' and inserting the following:

''(2) POOL HEATERS.—

''(A) GAS-FIRED POOL HEATERS.—The thermal efficiency of gas-fired pool heaters''; and

(2) by adding at the end the following:

''(B) HEAT PUMP POOL HEATERS.—Heat pump pool heaters manufactured on or after the date of enactment of this subparagraph shall have a minimum coefficient of performance of 4.0.''.

SEC. 4. EFFICIENCY STANDARDS FOR CLASS A EXTERNAL POWER SUPPLIES.

Section 325(u)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6295(u)(3)) is amended—

(1) in subparagraph (A), by striking ''(D)'' and inserting ''(E)''; and

(2) by adding at the end the following:

''(E) NONAPPLICATION OF NO-LOAD MODE ENERGY EFFICIENCY STANDARDS TO EXTERNAL POWER SUPPLIES FOR CERTAIN SECURITY OR LIFE SAFETY ALARMS OR SURVEILLANCE SYSTEMS.—

''(i) DEFINITION OF SECURITY OR LIFE SAFETY ALARM OR SURVEILLANCE SYSTEM.—In this subparagraph:

''(I) IN GENERAL.—The term 'security or life safety alarm or surveillance system' means equipment designed and marketed to perform any of the following functions (on a continuous basis):

''(aa) Monitor, detect, record, or provide notification of intrusion or access to real property or physical assets or notification of threats to life safety.

''(bb) Deter or control access to real property or physical assets, or prevent the unauthorized removal of physical assets.

''(cc) Monitor, detect, record, or provide notification of

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

''(II) EXCLUSION.—The term 'security or life safety alarm or surveillance system' does not include any product with a principal function other than life safety, security, or surveillance that—

''(aa) is designed and marketed with a built-in alarm or theft-deterrent feature; or

''(bb) does not operate necessarily and continuously in active mode.

''(ii) NONAPPLICATION OF NO-LOAD MODE REQUIREMENTS.—The No-Load Mode energy efficiency standards established by this paragraph shall not apply to an external power supply manufactured before July 1, 2017, that—

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

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

"(III) is certified to the Secretary as being designed to be connected to a security or life safety alarm or surveillance system component; and

"(IV) on establishment within the External Power Supply International Efficiency Marking Protocol, as referenced in the 'Energy Star Program Requirements for Single Voltage External Ac-Dc and Ac-Ac Power Supplies', published by the Environmental Protection Agency, of a distinguishing mark for products described in this clause, is permanently marked with the distinguishing mark.

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

"(I) require, with appropriate safeguard for the protection of confidential business information, the

submission of unit shipment data on an annual basis; and

''(II) restrict the eligibility of external power supplies for the exemption provided under this subparagraph on a finding that a substantial number of the external power supplies are being marketed to or installed in applications other than security or life safety alarm or surveillance systems.''.

SEC. 5. PROHIBITED ACTS.

Section 332(a) of the Energy Policy and Conservation Act (42 U.S.C. 6302(a)) is amended—

(1) in paragraphs (1) and (5), by striking ''for any manufacturer or private labeler to distribute'' each place it appears and inserting ''for any manufacturer (or representative of a manufacturer), distributor, retailer, or private labeler to offer for sale or distribute'';

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

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

any manufacturer (or representative of a manufacturer), distributor, retailer, or private labeler to offer for sale or distribute''.

SEC. 6. OUTDOOR LIGHTING.

(a) DEFINITIONS.—

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

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

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

''(L) Pole-mounted outdoor luminaires.

''(M) High light output double-ended quartz halogen lamps.

''(N) General purpose mercury vapor lamps.''.

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

(A) by striking ''and'' before ''unfired hot water''; and

(B) by inserting after ''tanks'' the following: '', pole-mounted outdoor luminaires, high light output double-ended quartz halogen

lamps, and general purpose mercury vapor lamps''.

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

''(24) AREA LUMINAIRE.—The term 'area luminaire' means a luminaire intended for lighting parking lots and general areas that—

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

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

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

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

''(E) has photometric output measured using Type C photometry per IESNA LM–75–01.

''(25) DECORATIVE POSTTOP LUMINAIRE.—The term 'decorative posttop luminaire' means a luminaire with—

''(A) open or transmissive sides that is designed to be mounted directly over a pole using a vertical tenon or by fitting the luminaire directly into the pole; and

''(B) photometric output measured using Type C photometry per IESNA LM–75–01.

''(26) DUSK-TO-DAWN LUMINAIRE.—The term 'dusk-to-dawn luminaire' means a fluorescent, induction, or high intensity discharge luminaire that—

''(A) is designed to be mounted on a horizontal or horizontally slanted tenon or arm;

''(B) has an optical assembly that is coaxial with the axis of symmetry of the light source;

''(C) has an optical assembly that is—

''(i) a reflector or lamp enclosure that surrounds the light source with an open lower aperture; or

''(ii) a refractive optical assembly surrounding the light source with an open or closed lower aperture;

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

tical assembly or offset toward the mounting bracket by less than 3 inches, or contains an integral photocontrol; and

"(E) has photometric output measured using Type C photometry per IESNA LM–75–01.

"(27) FLOODLIGHT LUMINAIRE.—The term 'floodlight luminaire' means an outdoor luminaire designed with a yoke, knuckle, or other mechanism allowing the luminaire to be aimed 40 degrees or more with its photometric distributions established with only Type B photometry in accordance with IESNA LM-75, revised 2001.

"(28) GENERAL PURPOSE MERCURY VAPOR LAMP.—The term 'general purpose mercury vapor lamp' means a mercury vapor lamp (as defined in section 321) that—

"(A) has a screw base;

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

"(C) is not a specialty application mercury vapor lamp; and

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

''(29) HIGH LIGHT OUTPUT DOUBLE-ENDED QUARTZ HALOGEN LAMP.—The term 'high light output double-ended quartz halogen lamp' means a lamp that—

''(A) is designed for general outdoor lighting purposes;

''(B) contains a tungsten filament;

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

''(D) has at each end a recessed single contact, R7s base;

''(E) has a maximum overall length (MOL) between 4 and 11 inches;

''(F) has a nominal diameter less than ¾ inch (T6);

''(G) is designed to be operated at a voltage not less than 110 volts and not greater than 200 volts or is designed to be operated at a voltage between 235 volts and 300 volts;

''(H) is not a tubular quartz infrared heat lamp; and

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

''(30) MEAN RATED LAMP LUMENS.—The term 'mean rated lamp lumens' means the rated lumens at—

''(A) 40 percent of rated lamp life for metal halide, induction, and fluorescent lamps; or

''(B) 50 percent of rated lamp life for high pressure sodium lamps.

''(31) OUTDOOR LUMINAIRE.—The term 'outdoor luminaire' means a luminaire that—

''(A) is intended for outdoor use and suitable for wet locations; and

''(B) may be shipped with or without a lamp.

''(32) POLE-MOUNTED OUTDOOR LUMINAIRE.—

''(A) IN GENERAL.—The term 'pole-mounted outdoor luminaire' means an outdoor luminaire that is designed to be mounted on an outdoor pole and is—

''(i) an area luminaire;

''(ii) a roadway and highmast luminaire;

''(iii) a decorative posttop luminaire; or

''(iv) a dusk-to-dawn luminaire.

"(B) EXCLUSIONS.—The term 'pole-mounted outdoor luminaire' does not include—

"(i) a portable luminaire designed for use at construction sites;

"(ii) a luminaire designed to be used in emergency conditions that—

"(I) incorporates a means of storing energy and a device to switch the stored energy supply to emergency lighting loads automatically on failure of the normal power supply; and

"(II) is listed and labeled as Emergency Lighting Equipment;

"(iii) a decorative gas lighting system;

"(iv) a luminaire designed explicitly for lighting for theatrical purposes, including performance, stage, film production, and video production;

"(v) a luminaire designed as theme elements in theme or amusement parks and that cannot be used in most general lighting applications;

"(vi) a luminaire designed explicitly for hazardous locations meeting the requirements of Underwriters Laboratories

Standard 844 - 2006, 'Luminaires for Use in Hazardous (Classified) Locations';

''(vii) a residential pole-mounted luminaire that is not rated for commercial use utilizing 1 or more lamps meeting the energy conservation standards established under section 325(i) and mounted on a post or pole not taller than 10.5 feet above ground and not rated for a power draw of more than 145 watts;

''(viii) a floodlight luminaire;

''(ix) an outdoor luminaire designed for sports and recreational area use in accordance with IESNA RP-6 and utilizing an 875 watt or greater metal halide lamp;

''(x) a decorative posttop luminaire designed for using high intensity discharge lamps with total lamp wattage of 150 or less, or designed for using other lamp types with total lamp wattage of 50 watts or less;

''(xi) an area luminaire, roadway and highmast luminaire, or dusk-to-dawn luminaire designed for using high intensity discharge lamps or pin-based compact fluores-

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

''(xii) an area luminaire, roadway and highmast luminaire, or dusk-to-dawn luminaire with a backlight rating less than 2 and with the maximum of the uplight or glare rating 3 or less.

''(33) ROADWAY AND HIGHMAST LUMINAIRE.—The term 'roadway and highmast luminaire' means a luminaire intended for lighting streets and roadways that—

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

''(B) has opaque tops or sides;

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

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

''(E) has photometric output measured using Type C photometry per IESNA LM–75–01.

''(34) SPECIALTY APPLICATION MERCURY VAPOR LAMP.—The term 'specialty application mercury vapor lamp' means a mercury vapor lamp (as defined in section 321) that is—

''(A) designed only to operate on a specialty application mercury vapor lamp ballast (as defined in section 321); and

''(B) is marked and marketed for specialty applications only.

''(35) TARGET EFFICACY RATING.—The term 'target efficacy rating' means a measure of luminous efficacy of a luminaire (as defined in NEMA LE–6–2009).

''(36) TUBULAR QUARTZ INFRARED HEAT LAMP.—The term 'tubular quartz infrared heat lamp' means a double-ended quartz halogen lamp that—

''(A) is marked and marketed as an infrared heat lamp; and

''(B) radiates predominately in the infrared radiation range and in which the visible radiation is not of principle interest.''.

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

"(g) POLE-MOUNTED OUTDOOR LUMINAIRES.—

"(1) TARGET EFFICACY RATING, LUMEN MAINTENANCE AND POWER FACTOR REQUIREMENTS.—

"(A) DEFINITION OF MAXIMUM OF UPLIGHT OR GLARE RATING.—In this paragraph, the term 'maximum of uplight or glare rating' means, for any specific outdoor luminaire, the higher of the uplight rating or glare rating of the luminaire.

"(B) REQUIREMENTS.—Each pole-mounted outdoor luminaire manufactured on or after the date that is 3 years after the date of enactment of this subsection shall—

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

"Area, Roadway or Highmast luminaires

	Maximum of Uplight or Glare rating		
Backlight 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

	Maximum of Uplight or Glare rating		
Backlight 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;

''(ii) use lamps that have a minimum of 0.6 lumen maintenance, as determined in accordance with IESNA LM-80 for Solid State Lighting sources or calculated as mean rated lamp lumens divided by initial rated lamp lumens for other light sources; and

''(iii) have a power factor equal to or greater than 0.9 at ballast full power, except in the case of pole-mounted outdoor luminaires designed for using high intensity discharge lamps with a total rated lamp wattage of 150 watts or less, which shall have no power factor requirement.

''(2) CONTROL REQUIREMENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), each area luminaire manufactured on or after the date that is 3 years after the date of enactment of this subsection shall be sold—

''(i) with integral controls that shall have the capability of operating the luminaire at full power and a minimum of 1 reduced power level plus off, in which case

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

''(ii) with internal electronics and connective wiring or hardware (including wire leads, pigtails, inserts for wires, pin bases, or the equivalent) that—

''(I) collectively enable the area luminaire, if properly connected to an appropriate control system, to operate at full power and a minimum of 1 reduced power level plus off, in which case the reduced power level shall be at least 30 percent lower than the rated lamp power in response to signals sent by controls not integral to the luminaire as sold, that may be connected in the field; and

''(II) have connections from the components that are easily accessible in the luminaire housing and have instructions applicable to appropriate control system connections that are included with the luminaire.

''(B) NONAPPLICATION.—The control requirements of this paragraph shall not apply to—

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

''(ii) pole-mounted outdoor luminaires utilizing induction lamps.

''(C) INTEGRAL PHOTOSENSORS.—Each pole-mounted outdoor luminaire sold with an integral photosensor shall use an electronic-type photocell.

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

''(A) IN GENERAL.—Not later than 60 days after the date of enactment of this subsection, the Secretary shall initiate a rulemaking procedure to determine whether the standards in effect for pole-mounted outdoor luminaires should be amended.

''(B) FINAL RULE.—

''(i) PUBLICATION.—The Secretary shall publish a final rule containing the

amendments, if any, not later than January 1, 2013, or the date that is 33 months after the date of enactment of this subsection, whichever is later.

''(ii) APPLICATION.—Any amendments shall apply to products manufactured on or after January 1, 2016, or the date that is 3 years after the final rule is published in the Federal Register, whichever is later.

''(C) REVIEW.—

''(i) IN GENERAL.—As part of the rulemaking required under this paragraph, the Secretary shall review and may amend the definitions, exclusions, test procedures, power factor standards, lumen maintenance requirements, labeling requirements, and additional control requirements, including dimming functionality, for all pole-mounted outdoor luminaires.

''(ii) FACTORS.—The review of the Secretary shall include consideration of—

''(I) obstacles to compliance and whether compliance is evaded by substitution of nonregulated luminaires

for regulated luminaires or allowing luminaires to comply with the standards established under this part based on use of non-standard lamps, as provided for in section 343(a)(10)(D)(i)(II);

"(II) statistical data relating to pole-mounted outdoor luminaires that—

"(aa) the Secretary shall request not later than 120 days after the date of enactment of this subsection from all identifiable manufacturers of pole-mounted outdoor luminaires, directly from manufacturers of pole-mounted outdoor luminaires or, in the case of members of the National Electrical Manufacturers Association, from the National Electrical Manufacturers Association;

"(bb) is considered necessary for the rulemaking; and

"(cc) shall be made publicly available in a manner that does not reveal manufacturer identity or confidential business information, in a timely manner for discussion at any public proceeding at which comment is solicited from the public in connection with the rulemaking, except that nothing in this subclause restricts the Secretary from seeking additional information during the course of the rulemaking; and

"(III) phased-in effective dates for different types of pole-mounted outdoor luminaires that are submitted to the Secretary in the manner provided for in section 325(p)(4), except that the phased-in effective dates shall not be subject to subparagraphs (A) and (B) of this paragraph.

"(4) RULEMAKING BEFORE FEBRUARY 1, 2015.—

"(A) IN GENERAL.—Not later than February 1, 2015, the Secretary shall initiate a

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

''(B) FINAL RULE.—

''(i) PUBLICATION.—The Secretary shall publish a final rule containing the amendments, if any, not later than January 1, 2018.

''(ii) APPLICATION.—Any amendments shall apply to products manufactured on or after January 1, 2021.

''(C) REVIEW.—

''(i) IN GENERAL.—As part of the rulemaking required under this paragraph, the Secretary shall review and may amend the definitions, exclusions, test procedures, power factor standards, lumen maintenance requirements, labeling requirements, and additional control requirements, including dimming functionality, for all pole-mounted outdoor luminaires.

''(ii) FACTORS.—The review of the Secretary shall include consideration of—

''(I) obstacles to compliance and whether compliance is evaded by sub-

stitution of nonregulated luminaires for regulated luminaires or allowing luminaires to comply with the standards established under this part based on use of nonstandard lamps, as provided for in section 343(a)(10)(D)(i)(II);

''(II) statistical data relating to pole-mounted outdoor luminaires that—

''(aa) the Secretary considers necessary for the rule-making and requests not later than June 1, 2015, from all identifiable manufacturers of pole-mounted outdoor luminaires, directly from manufacturers of pole-mounted outdoor luminaires and, in the case of members of the National Electrical Manufacturers Association, from the National Electrical Manufacturers Association; and

''(bb) shall be made publicly available in a manner that does

not reveal manufacturer identity or confidential business information, in a timely manner for discussion at any public proceeding at which comment is solicited from the public in connection with the rulemaking, except that nothing in this subclause restricts the Secretary from seeking additional information during the course of the rulemaking; and

''(III) phased-in effective dates for different types of pole-mounted outdoor luminaires that are submitted to the Secretary in the manner provided for in section 325(p)(4), except that the phased-in effective dates shall not be subject to subparagraphs (A) and (B) of this paragraph.

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

''(1) 27 LPW for lamps with a minimum rated initial lumen value greater than 6,000 and a maximum initial lumen value of 15,000; and

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

''(i) GENERAL PURPOSE MERCURY VAPOR LAMPS.—A general purpose mercury vapor lamp shall not be manufactured on or after January 1, 2016.''.

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

''(10) POLE-MOUNTED OUTDOOR LUMINAIRES.—

''(A) IN GENERAL.—With respect to pole-mounted outdoor luminaires to which standards are applicable under section 342, the test methods shall be those described in this paragraph.

''(B) PHOTOMETRIC TEST METHODS.—For photometric test methods, the methods shall be those specified in—

''(i) IES LM–10–96—Approved Method for Photometric Testing of Outdoor Fluorescent Luminaires;

"(ii) IES LM–31–95—Photometric Testing of Roadway Luminaires Using Incandescent Filament and High Intensity Discharge Lamps;

"(iii) IES LM–79–08—Electrical and Photometric Measurements of Solid-State Lighting Products;

"(iv) IES LM–80–08—Measuring Lumen Maintenance of LED Light Sources;

"(v) IES LM–40–01—Life testing of Fluorescent Lamps;

"(vi) IES LM–47–01—Life testing of High Intensity Discharge (HID) Lamps;

"(vii) IES LM–49–01—Life testing of Incandescent Filament Lamps;

"(viii) IES LM–60–01—Life testing of Low Pressure Sodium Lamps; and

"(ix) IES LM–65–01—Life testing of Compact Fluorescent Lamps.

"(C) OUTDOOR BACKLIGHT, UPLIGHT, AND GLARE RATINGS.—For determining outdoor backlight, uplight, and glare ratings, the classifications shall be those specified in IES TM–

15–07 - Luminaire Classification System for Outdoor Luminaires with Addendum A.

''(D) TARGET EFFICACY RATING.—For determining the target efficacy rating, the procedures shall be those specified in NEMA LE–6–2009 – 'Procedure for Determining Target Efficacy Ratings (TER) for Commercial, Industrial and Residential Luminaires,' and all of the following additional criteria (as applicable):

''(i) The target efficacy rating shall be calculated based on the initial rated lamp lumen and rated watt value equivalent to the lamp with which the luminaire is shipped, or, if not shipped with a lamp, the target efficacy rating shall be calculated based on—

''(I) the applicable standard lamp as established by subparagraph (E); or

''(II) a lamp that has a rated wattage and rated initial lamp lumens that are the same as the maximum lamp watts and minimum lamp lumens labeled on the luminaire, in accordance with section 344(f).

''(ii) If the luminaire is designed to operate at more than 1 nominal input voltage, the ballast input watts used in the target efficacy rating calculation shall be the highest value for any nominal input voltage for which the ballast is designed to operate.

''(iii) If the luminaire is a pole-mounted outdoor luminaire that contains a ballast that is labeled to operate lamps of more than 1 wattage, the luminaire shall—

''(I) meet or exceed the target efficacy rating in the table in section 342(g)(1)(A) calculated in accordance with clause (i) for all lamp wattages that the ballast is labeled to operate;

''(II) be constructed such that the luminaire is only capable of accepting lamp wattages that produce target efficacy ratings that meet or exceed the values in the table in section 342(g)(1)(A) calculated in accordance with clause (i); or

''(III) be rated and prominently labeled for a maximum lamp wattage

that results in the luminaire meeting or exceeding the target efficacy rating in the table in section 342(g)(1)(A) when calculated and labeled in accordance with clause (i).

''(iv) If the luminaire is a pole-mounted outdoor luminaire that is constructed such that the luminaire will only accept an ANSI Type-O lamp, the luminaire shall meet or exceed the target efficacy rating in the table in section 342(g)(1)(A) when tested with an ANSI Type-O lamp.

''(v) If the luminaire is a pole-mounted outdoor luminaire that is marketed to use a coated lamp, the luminaire shall meet or exceed the target efficacy rating in the table in section 342(g)(1)(A) when tested with a coated lamp.

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

source, including ranges of correlated color temperature and color rendering index values, for which the luminaire is marketed by the luminaire manufacturer.

''(vii) If the luminaire is a high intensity discharge pole-mounted outdoor luminaire using a ballast that has a ballast factor different than 1, the target efficacy rating of the luminaire shall be calculated by using the input watts needed to operate the lamp at full rated power, or by using the actual ballast factor of the ballast.

''(E) TABLE OF STANDARD LAMP TYPES.—

''(i) IN GENERAL.—The National Electrical Manufacturers Association shall develop and publish not later than 1 year after the date of enactment of this paragraph and thereafter maintain and regularly update on a publicly available website a table including standard lamp types by wattage, ANSI code, initial lamp lumen value, lamp orientation, and lamp finish.

''(ii) INITIAL LAMP LUMEN VALUES.—The initial lamp lumen values shall—

''(I) be determined according to a uniform rating method and tested according to accepted industry practice for each lamp that is considered for inclusion in the table; and

''(II) in each case contained in the table, be the lowest known initial lamp lumen value that approximates typical performance in representative general outdoor lighting applications.

''(iii) ACTIONS.—On completion of the table required by this subparagraph and any updates to the table—

''(I) the National Electrical Manufacturers Association shall submit the table and any updates to the Secretary; and

''(II) the Secretary shall—

''(aa) publish the table and any comments that are included with the table in the Federal Register;

''(bb) solicit public comment on the table; and

"(cc) not later than 180 days after date of receipt of the table, after considering the factors described in clause (iv), adopt the table for purposes of this part.

"(iv) REBUTTABLE PRESUMPTION.—

"(I) IN GENERAL.—There shall be a rebuttable presumption that the table and any updates to the table transmitted by the National Electrical Manufacturers Association to the Secretary meets the requirements of this subparagraph, which may be rebutted only if the Secretary finds by clear and substantial evidence that—

"(aa) data have been included that were not the result of having applied applicable industry standards; or

"(bb) lamps have been included in the table that are not representative of general outdoor lighting applications.

"(II) CONFORMING CHANGES.—If subclause (I) applies, the National Electrical Manufacturers Association shall conform the published table of the Association to the table adopted by the Secretary.

"(v) NONTRANSMISSION OF TABLE.—If the National Electrical Manufacturers Association has not submitted the table to the Secretary within 1 year after the date of enactment of this paragraph, the Secretary shall develop, publish, and adopt the table not later than 18 months after the date of enactment of this paragraph and update the table regularly.

"(F) AMENDMENT OF TEST METHODS.—The Secretary may, by rule, adopt new or additional test methods for pole-mounted outdoor luminaires in accordance with this section.".

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

(1) in subsections (d) and (e), by striking "(h)" each place it appears and inserting "(i)";

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

(3) by inserting after subsection (e) the following:

''(f) LABELING RULES FOR POLE-MOUNTED OUTDOOR LUMINAIRES.—

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

''(2) RULES.—The rules shall require—

''(A) for pole-mounted outdoor luminaires, that the luminaire, be marked with a capital letter 'P' printed within a circle in a conspicuous location on both the pole-mounted luminaire and its packaging to indicate that the pole-mounted outdoor luminaire conforms to the energy conservation standards established in section 342(g); and

''(B) for pole-mounted outdoor luminaires that do not contain a lamp in the same shipment with the luminaire and are tested with a lamp with a lumen rating exceeding the standard lumen value specified in the table estab-

lished under section 343(a)(10)(E), that the luminaire—

"(i) be labeled to identify the minimum rated initial lamp lumens and maximum rated lamp watts required to conform to the energy conservation standards established in section 342(g); and

"(ii) bear a statement on the label that states: 'Product violates Federal law when installed with a standard lamp. Use only a lamp that meets the minimum lumens and maximum watts provided on this label.' ".

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

(1) in the first sentence of subsection (a), by striking "The" and inserting "Except as otherwise provided in this section, the"; and

(2) by adding at the end the following:

"(i) POLE-MOUNTED OUTDOOR LUMINAIRES AND HIGH LIGHT OUTPUT DOUBLE-ENDED QUARTZ HALOGEN LAMPS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), section 327 shall apply to pole-mounted outdoor luminaires and high light output double-

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

''(2) STATE ENERGY CONSERVATION STANDARDS.—Any State energy conservation standard that is adopted on or before January 1, 2015, pursuant to a statutory requirement to adopt efficiency standard for reducing outdoor lighting energy use enacted prior to January 31, 2008, shall not be preempted.''.

SEC. 7. ENERGY EFFICIENCY PROVISIONS.

(a) DIRECT FINAL RULE.—Section 323(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)(1)) is amended by adding at the end the following:

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

''(C) NEW OR AMENDED TEST PROCEDURES.—The Secretary shall direct the National Bureau of Standards to assist in developing new or amended test procedures.

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

cordance with the direct final rule procedure established under section 325(p)(4).''.

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

(1) in paragraph (2)(B)—

(A) in clause (i)—

(i) in subclause (III), by adding before the semicolon ''and the estimated impact on average energy prices'';

(ii) in subclause (VI), by striking ''; and'' and inserting a semicolon;

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

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

''(VII) the net energy, environmental, and economic impacts due to smart grid technologies or capabilities in a covered product that enable demand response or response to time-dependent energy pricing, taking into consideration the rate of use of the smart grid technologies or capabilities over the life of the product that is

likely to result from the imposition of the standard; and''; and

(B) in clause (iii)—

(i) by striking ''(iii) If the Secretary finds'' and inserting the following:

''(iii) REBUTTABLE PRESUMPTION.—

''(I) IN GENERAL.—Subject to subclause (II), if the Secretary finds'';

(ii) in subclause (I) (as designated by clause (i)), by striking ''three'' and inserting ''4''; and

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

''(II) MULTIPLIER FOR CERTAIN PRODUCTS.—For any product with an average expected useful life of less than 4 years, the rebuttable presumption described in subclause (I) shall be determined using 75 percent of the average expected useful life of the product as a multiplier instead of 4.

''(III) REQUIREMENT FOR REBUTTAL OF PRESUMPTION.—A presumption described in subclause (I) may be rebutted only if the Secretary

finds, based on clear and substantial evidence, that—

"(aa) the standard level would cause substantial hardship to the average consumer of the product, or to manufacturers supplying a significant portion of the market for the product, in terms of manufacturing or product cost or loss of product utility or features, the aggregate of which outweighs the benefits of the standard level;

"(bb) the standard and implementing regulations cannot reasonably be designed to avoid or mitigate any hardship described in item (aa) (including through the adoption of regional standards for the products identified in, and consistent with, paragraph (6) or other reasonable means consistent with this part) and the hardship cannot be avoided or mitigated through the

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

"(cc) the same or a substantially similar hardship with respect to a hardship described in item (aa) would not occur under a standard adopted in the absence of the presumption, but that otherwise meets the requirements of this section.

"(IV) PROHIBITED FACTORS FOR DETERMINATION.—

"(aa) IN GENERAL.—Except as provided in item (bb), a determination by the Secretary that the criteria triggering a presumption described in subclause (I) are not met, or that the criterion for rebutting the presumption are met, shall not be taken into consideration by the Secretary in determining whether a standard is economically justified.

''(bb) EXCEPTION.—Evidence presented regarding the presumption may be considered by the Secretary in making a determination described in item (aa).''; and

(2) by adding at the end the following:

''(7) INCORPORATION OF SMART GRID TECHNOLOGIES.—The Secretary may incorporate smart grid technologies or capabilities into standards under this section, including through—

''(A) standards for covered products that require specific technologies or capabilities;

''(B) standards that provide credit for smart grid technologies or capabilities, to the extent the smart grid technologies or capabilities provide net benefits substantially equivalent to benefits of products that meet the standards without smart grid technologies or capabilities, taking into consideration energy, economic, and environmental impacts (including emissions reductions from electrical generation); and

''(C) multiple performance standards or design requirements to achieve—

''(i) the goals of—

''(I) reducing overall energy use; and

''(II) reducing peak demand; or

''(ii) other smart grid goals.''.

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

''(d) INFORMATION REQUIREMENTS.—

''(1) IN GENERAL.—For purposes of carrying out this part, the Secretary shall promulgate proposed regulations not later than 1 year after the date of enactment of the National Energy Efficiency Enhancement Act of 2010, and after receiving public comment, final regulations not later than 18 months after the date of enactment of that Act, under this part or other provision of law administered by the Secretary, that shall require each manufacturer of a covered product, on a product specific basis, to submit information or reports to the Secretary—

''(A) in such form as the Secretary may adopt; and

''(B) on—

''(i) an annual basis; or

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

"(2) FORM AND CONTENT OF REPORTS.—The form and content of each report required by a manufacturer of a covered product under paragraph (1)—

"(A) may vary by product type, as determined by the Secretary; and

"(B) shall include information or data regarding—

"(i) the compliance by the manufacturer with respect to each requirement applicable pursuant to this part;

"(ii) the annual shipments by the manufacturer of each class or category of covered products, subdivided, to the extent practicable, by—

"(I) energy efficiency, energy use, and, if applicable, water use;

"(II) the presence or absence of such efficiency related or energy consuming operational characteristics or components as the Secretary determines to be relevant for the purposes of carrying out this part; and

"(III) the State or regional location of sale for covered products for which the Secretary may adopt regional standards; and

"(iii) such other categories of information that the Secretary determines to be relevant to carry out this part, including such other information that may be necessary—

"(I) to establish and revise—

"(aa) test procedures;

"(bb) labeling rules; and

"(cc) energy conservation standards;

"(II) to ensure compliance with the requirements of this part; and

"(III) to estimate the impacts on consumers and manufacturers of energy conservation standards in effect as of the reporting date.

"(3) REQUIREMENTS OF SECRETARY IN PROMULGATING REGULATIONS.—In promulgating regulations under paragraph (1), the Secretary shall consider—

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

''(B)(i) whether some or all of the information described in paragraph (2) is submitted to another Federal agency; and

''(ii) the means by which to minimize any duplication of requests for information by Federal agencies.

''(4) MINIMIZATION OF BURDENS ON MANUFACTURERS.—In carrying out this subsection, the Secretary shall exercise the authority of the Secretary under this subsection in a manner designed to minimize burdens on the manufacturers of covered products.

''(5) REPORTING OF ENERGY INFORMATION.—

''(A) IN GENERAL.—Subject to subparagraph (B), section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796(d)) shall apply with respect to information obtained under this subsection to the same extent and in the same manner as section 11(d) of that Act applies with respect to energy information obtained under section 11 of that Act.

"(B) ADMINISTRATION.—Subparagraph (A) shall apply to the extent that subparagraph (A) does not conflict with the duties of the Secretary in carrying out this part.

"(6) COORDINATION WITH STATE AGENCIES.—In adopting reporting requirements under paragraph (1), the Secretary shall, to the extent practicable, coordinate with State agencies that conduct similar data gathering initiatives—

"(A) to ensure the uniformity of the requirements; and

"(B) to mitigate reporting burdens.

"(7) PERIODIC REVISIONS.—In accordance with each procedure and criteria required under paragraph (1), the Secretary may periodically revise the reporting requirements adopted under paragraph (1).".

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

(1) in subparagraph (B)—

(A) by inserting "(i)" before "Subject to paragraphs"; and

(B) by adding at the end the following:

''(ii) In making a finding under clause (i), the Secretary may not reject a petition for failure of the petitioning State or river basin commission to produce confidential information maintained by any manufacturer or distributor, or group or association of manufacturers or distributors, that the petitioning party has requested and not received.''; and

(2) in the matter following subparagraph (C)(ii), by adding at the end the following: ''Notwithstanding the preceding sentence, the Secretary may approve a waiver petition submitted by a State that does not have an energy plan and forecast if the waiver petition concerns a State regulation adopted pursuant to a notice and comment rulemaking proceeding.''

(e) PERMITTING STATES TO SEEK INJUNCTIVE ENFORCEMENT.—Section 334 of the Energy Policy and Conservation Act (42 U.S.C. 6304) is amended to read as follows:

''SEC. 334. PERMITTING STATES TO SEEK INJUNCTIVE ENFORCEMENT.

''(a) JURISDICTION.—The United States district courts shall have original jurisdiction of a civil action seeking an injunction to restrain—

''(1) any violation of section 332; and

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

''(b) AUTHORITY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an action under subsection (a) shall be brought by—

''(A) the Commission; or

''(B) the attorney general of a State in the name of the State.

''(2) EXCEPTIONS.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), only the Secretary may bring an action under this section to restrain—

''(i) a violation of section 332(a)(3) relating to a requirement prescribed by the Secretary; or

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

''(B) OTHER PROHIBITED ACTS.—An action under this section regarding a violation of paragraph (5) or (7) of section 332(a) shall be brought by—

''(i) the Secretary; or

"(ii) the attorney general of a State in the name of the State.

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

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

"(A) provide written notice to the Secretary and the Commission; and

"(B) provide the Secretary and the Commission with a copy of the complaint;

"(2) the Secretary and the Commission—

"(A) may intervene in the suit or action;

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

"(C) may file petitions for appeal;

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

"(4) the action shall not be construed—

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

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

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

"(d) VENUE; SERVICE OF PROCESS.—

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

"(A) the district in which the act, omission, or transaction constituting the applicable violation occurred; or

"(B) the district in which the defendant—

"(i) resides; or

"(ii) transacts business.

"(2) SERVICE OF PROCESS.—In an action under this section, process may be served on a defendant in any district in which the defendant resides or is otherwise located.".

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

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

''(h) RECOGNITION OF ALTERNATIVE REFRIGERANT USES.—With respect to State or local laws (including regulations) prohibiting, limiting, or restricting the use of alternative refrigerants for specific end uses approved by the Administrator of the Environmental Protection Agency pursuant to the Significant New Alternatives Program under section 612 of the Clean Air Act (42 U.S.C. 7671k) for use in a covered product under section 322(a)(1) considered on or after the date of enactment of this subsection, notice shall be provided to the Administrator before or during any State or local public comment period to provide to the Administrator an opportunity to comment.''.

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