

109TH CONGRESS
1ST SESSION

H. R. 1834

To provide for various energy efficiency programs and tax incentives, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2005

Mr. CUNNINGHAM (for himself and Mr. MARKEY) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for various energy efficiency programs and tax
incentives, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Efficient Energy Through Certified Technologies and
6 Electricity Reliability (EFFECTER) Act of 2005”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—TAX INCENTIVES

- Sec. 101. Energy efficient commercial buildings deduction.
- Sec. 102. Credit for construction of new energy efficient homes.
- Sec. 103. Incentive for certain energy efficient property used in business.
- Sec. 104. Credit for certain nonbusiness energy property.
- Sec. 105. Energy credit for combined heat and power system property.

TITLE II—ENERGY EFFICIENT PRODUCTS

- Sec. 201. Energy conservation standards for additional products.
- Sec. 202. Energy labeling.
- Sec. 203. Commercial package air conditioning and heating equipment.
- Sec. 204. Commercial refrigerators, freezers, and refrigerator-freezers.

TITLE III—ENERGY EFFICIENT FEDERAL PROGRAMS

- Sec. 301. Procurement of energy efficient products.
- Sec. 302. Energy savings performance contracts.
- Sec. 303. Federal building performance standards.

TITLE IV—PUBLIC HOUSING

- Sec. 401. Public housing capital fund.
- Sec. 402. Grants for energy-conserving improvements for assisted housing.
- Sec. 403. Energy-efficient appliances.
- Sec. 404. Energy efficiency standards.

TITLE V—RELIABILITY STANDARDS

- Sec. 501. Electric reliability standards.

1 **TITLE I—TAX INCENTIVES**

2 **SEC. 101. ENERGY EFFICIENT COMMERCIAL BUILDINGS DE-** 3 **DUCTION.**

4 (a) IN GENERAL.—Part VI of subchapter B of chap-
 5 ter 1 of the Internal Revenue Code of 1986 (relating to
 6 itemized deductions for individuals and corporations) is
 7 amended by inserting after section 179B the following new
 8 section:

1 **“SEC. 179C. ENERGY EFFICIENT COMMERCIAL BUILDINGS**
2 **DEDUCTION.**

3 “(a) IN GENERAL.—There shall be allowed as a de-
4 duction an amount equal to the cost of energy efficient
5 commercial building property placed in service during the
6 taxable year.

7 “(b) MAXIMUM AMOUNT OF DEDUCTION.—The de-
8 duction under subsection (a) with respect to any building
9 for the taxable year and all prior taxable years shall not
10 exceed an amount equal to the product of—

11 “(1) \$2.25, and

12 “(2) the square footage of the building.

13 “(c) DEFINITIONS.—For purposes of this section—

14 “(1) ENERGY EFFICIENT COMMERCIAL BUILD-
15 ING PROPERTY.—The term ‘energy efficient commer-
16 cial building property’ means property—

17 “(A) which is installed on or in any build-
18 ing located in the United States,

19 “(B) which is installed as part of—

20 “(i) the interior lighting systems,

21 “(ii) the heating, cooling, ventilation,
22 and hot water systems, or

23 “(iii) the building envelope, and

24 “(C) which is certified in accordance with
25 subsection (d)(6) as being installed as part of
26 a plan designed to reduce the total annual en-

1 energy and power costs with respect to the inte-
2 rior lighting systems, heating, cooling, ventila-
3 tion, and hot water systems of the building by
4 50 percent or more in comparison to a ref-
5 erence building which meets the minimum re-
6 quirements of Standard 90.1–2001 using meth-
7 ods of calculation under subsection (d)(2).

8 A building described in subparagraph (A) may in-
9 clude any residential rental property, including any
10 low-rise multifamily structure or single family hous-
11 ing property which is not within the scope of Stand-
12 ard 90.1–2001, but shall not include any qualified
13 new energy efficient home (within the meaning of
14 section 45J(d)(3)) for which a credit under section
15 45J has been allowed.

16 “(2) STANDARD 90.1–2001.—The term ‘Stand-
17 ard 90.1–2001’ means Standard 90.1–2001 of the
18 American Society of Heating, Refrigerating, and Air
19 Conditioning Engineers and the Illuminating Engi-
20 neering Society of North America (as in effect on
21 April 2, 2003).

22 “(d) SPECIAL RULES.—

23 “(1) PARTIAL ALLOWANCE.—

24 “(A) IN GENERAL.—Except as provided in
25 subsection (f), if—

1 “(i) the requirement of subsection
2 (c)(1)(C) is not met, but

3 “(ii) there is a certification in accord-
4 ance with paragraph (6) that any system
5 referred to in subsection (c)(1)(B) satisfies
6 the energy-savings targets established by
7 the Secretary under subparagraph (B)
8 with respect to such system,

9 then the requirement of subsection (c)(1)(C)
10 shall be treated as met with respect to such sys-
11 tem, and the deduction under subsection (a)
12 shall be allowed with respect to energy efficient
13 commercial building property installed as part
14 of such system and as part of a plan to meet
15 such targets, except that subsection (b) shall be
16 applied to such property by substituting ‘\$.75’
17 for ‘\$2.25’.

18 “(B) REGULATIONS.—The Secretary, after
19 consultation with the Secretary of Energy, shall
20 establish a target for each system described in
21 subsection (c)(1)(B) which, if such targets were
22 met for all such systems, the building would
23 meet the requirements of subsection (c)(1)(C).

24 “(2) METHODS OF CALCULATION.—The Sec-
25 retary, after consultation with the Secretary of En-

1 ergy, shall promulgate regulations which describe in
2 detail methods for calculating and verifying energy
3 and power consumption and cost, based on the pro-
4 visions of the 2005 California Nonresidential Alter-
5 native Calculation Method Approval Manual or, in
6 the case of residential property, the 2005 California
7 Residential Alternative Calculation Method Approval
8 Manual. These regulations shall meet the following
9 requirements:

10 “(A) In calculating tradeoffs and energy
11 performance, the regulations shall prescribe the
12 costs per unit of energy and power, such as kil-
13 owatt hour, kilowatt, gallon of fuel oil, and
14 cubic foot or Btu of natural gas, which may be
15 dependent on time of usage. If a State has de-
16 veloped annual energy usage and cost calcula-
17 tion procedures based on time of usage costs for
18 use in the performance standards of the State’s
19 building energy code before the effective date of
20 this section, the State may use those annual en-
21 ergy usage and cost calculation procedures in
22 lieu of those adopted by the Secretary.

23 “(B) The calculation methods under this
24 paragraph need not comply fully with section
25 11 of Standard 90.1–2001.

1 “(C) The calculation methods shall be fuel
2 neutral, such that the same energy efficiency
3 features shall qualify a building for the deduc-
4 tion under this section regardless of whether
5 the heating source is a gas or oil furnace or an
6 electric heat pump. The reference building for
7 a proposed design which employs electric resist-
8 ance heating shall be modeled as using a heat
9 pump.

10 “(D) The calculation methods shall provide
11 appropriate calculated energy savings for design
12 methods and technologies not otherwise credited
13 in either Standard 90.1–2001 or in the 2005
14 California Nonresidential Alternative Calcula-
15 tion Method Approval Manual, including the
16 following:

17 “(i) Natural ventilation.

18 “(ii) Evaporative cooling.

19 “(iii) Automatic lighting controls such
20 as occupancy sensors, photocells, and time-
21 clocks.

22 “(iv) Daylighting.

23 “(v) Designs utilizing semi-condi-
24 tioned spaces which maintain adequate

1 comfort conditions without air conditioning
2 or without heating.

3 “(vi) Improved fan system efficiency,
4 including reductions in static pressure.

5 “(vii) Advanced unloading mecha-
6 nisms for mechanical cooling, such as mul-
7 tiple or variable speed compressors.

8 “(viii) The calculation methods may
9 take into account the extent of commis-
10 sioning in the building, and allow the tax-
11 payer to take into account measured per-
12 formance which exceeds typical perform-
13 ance.

14 “(ix) On-site generation of electricity,
15 including combined heat and power sys-
16 tems, fuel cells, and renewable energy gen-
17 eration such as solar energy.

18 “(x) Wiring with lower energy losses
19 than wiring satisfying Standard 90.1–2001
20 requirements for building power distribu-
21 tion systems.

22 “(3) COMPUTER SOFTWARE.—

23 “(A) IN GENERAL.—Any calculation under
24 paragraph (2) shall be prepared by qualified
25 computer software.

1 “(B) QUALIFIED COMPUTER SOFTWARE.—

2 For purposes of this paragraph, the term

3 ‘qualified computer software’ means software—

4 “(i) for which the software designer

5 has certified that the software meets all

6 procedures and detailed methods for calcu-

7 lating energy and power consumption and

8 costs as required by the Secretary,

9 “(ii) which provides such forms as re-

10 quired to be filed by the Secretary in con-

11 nection with energy efficiency of property

12 and the deduction allowed under this sec-

13 tion, and

14 “(iii) which provides a notice form

15 which documents the energy efficiency fea-

16 tures of the building and its projected an-

17 nual energy costs.

18 “(4) ALLOCATION OF DEDUCTION FOR PUBLIC

19 PROPERTY.—In the case of energy efficient commer-

20 cial building property installed on or in public prop-

21 erty, the Secretary shall promulgate a regulation to

22 allow the allocation of the deduction to the person

23 primarily responsible for designing the property in

24 lieu of the public entity which is the owner of such

1 property. Such person shall be treated as the tax-
2 payer for purposes of this section.

3 “(5) NOTICE TO OWNER.—Each certification
4 required under this section shall include an expla-
5 nation to the building owner regarding the energy
6 efficiency features of the building and its projected
7 annual energy costs as provided in the notice under
8 paragraph (3)(B)(iii).

9 “(6) CERTIFICATION.—

10 “(A) IN GENERAL.—The Secretary shall
11 prescribe the manner and method for the mak-
12 ing of certifications under this section.

13 “(B) PROCEDURES.—The Secretary shall
14 include as part of the certification process pro-
15 cedures for inspection and testing by qualified
16 individuals described in subparagraph (C) to
17 ensure compliance of buildings with energy-sav-
18 ings plans and targets. Such procedures shall
19 be comparable, given the difference between
20 commercial and residential buildings, to the re-
21 quirements in the Mortgage Industry National
22 Accreditation Procedures for Home Energy
23 Rating Systems.

24 “(C) QUALIFIED INDIVIDUALS.—Individ-
25 uals qualified to determine compliance shall be

1 only those individuals who are recognized by an
2 organization certified by the Secretary for such
3 purposes.

4 “(e) BASIS REDUCTION.—For purposes of this sub-
5 title, if a deduction is allowed under this section with re-
6 spect to any energy efficient commercial building property,
7 the basis of such property shall be reduced by the amount
8 of the deduction so allowed.

9 “(f) INTERIM RULES FOR LIGHTING SYSTEMS.—
10 Until such time as the Secretary issues final regulations
11 under subsection (d)(1)(B) with respect to property which
12 is part of a lighting system—

13 “(1) IN GENERAL.—The lighting system target
14 under subsection (d)(1)(A)(ii) shall be a reduction in
15 lighting power density of 25 percent (50 percent in
16 the case of a warehouse) of the minimum require-
17 ments in Table 9.3.1.1 or Table 9.3.1.2 (not includ-
18 ing additional interior lighting power allowances) of
19 Standard 90.1–2001.

20 “(2) REDUCTION IN DEDUCTION IF REDUCTION
21 LESS THAN 40 PERCENT.—

22 “(A) IN GENERAL.—If, with respect to the
23 lighting system of any building other than a
24 warehouse, the reduction in lighting power den-
25 sity of the lighting system is not at least 40

1 percent, only the applicable percentage of the
2 amount of deduction otherwise allowable under
3 this section with respect to such property shall
4 be allowed.

5 “(B) APPLICABLE PERCENTAGE.—For
6 purposes of subparagraph (A), the applicable
7 percentage is the number of percentage points
8 (not greater than 100) equal to the sum of—

9 “(i) 50, and

10 “(ii) the amount which bears the same
11 ratio to 50 as the excess of the reduction
12 of lighting power density of the lighting
13 system over 25 percentage points bears to
14 15.

15 “(C) EXCEPTIONS.—This subsection shall
16 not apply to any system—

17 “(i) the controls and circuiting of
18 which do not comply fully with the manda-
19 tory and prescriptive requirements of
20 Standard 90.1–2001 and which do not in-
21 clude provision for bilevel switching in all
22 occupancies except hotel and motel guest
23 rooms, store rooms, restrooms, and public
24 lobbies, or

1 “(ii) which does not meet the min-
2 imum requirements for calculated lighting
3 levels as set forth in the Illuminating Engi-
4 neering Society of North America Lighting
5 Handbook, Performance and Application,
6 Ninth Edition, 2000.

7 “(g) COORDINATION WITH OTHER TAX BENE-
8 FITS.—

9 “(1) NO DOUBLE BENEFIT.—No deduction
10 shall be allowed under subsection (a) with respect to
11 any building for which a credit under section 45J
12 has been allowed.

13 “(2) SPECIAL RULE WITH RESPECT TO BUILD-
14 INGS WITH ENERGY EFFICIENT PROPERTY.—In any
15 case in which a deduction under section 200 or a
16 credit under section 25C has been allowed with re-
17 spect to property in connection with a building, the
18 annual energy and power costs of the reference
19 building referred to in subsection (c)(1)(C) shall be
20 determined assuming such reference building con-
21 tains the property for which such deduction or credit
22 has been allowed.

23 “(h) REGULATIONS.—The Secretary shall promul-
24 gate such regulations as necessary—

1 “(1) to take into account new technologies re-
2 garding energy efficiency and renewable energy for
3 purposes of determining energy efficiency and sav-
4 ings under this section, and

5 “(2) to provide for a recapture of the deduction
6 allowed under this section if the plan described in
7 subsection (e)(1)(C) or (d)(1)(A) is not fully imple-
8 mented.

9 “(i) TERMINATION.—This section shall not apply
10 with respect to property placed in service after December
11 31, 2010.”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Section 1016(a) of the Internal Revenue
14 Code of 1986 is amended by striking “and” at the
15 end of paragraph (30), by striking the period at the
16 end of paragraph (31) and inserting “, and”, and by
17 adding at the end the following new paragraph:

18 “(32) to the extent provided in section
19 179C(e).”.

20 (2) Section 1245(a) of such Code is amended
21 by inserting “179C,” after “179B,” both places it
22 appears in paragraphs (2)(C) and (3)(C).

23 (3) Section 1250(b)(3) of such Code is amend-
24 ed by inserting before the period at the end of the
25 first sentence “or by section 179C”.

1 (4) Section 263(a)(1) of such Code is amended
 2 by striking “or” at the end of subparagraph (H), by
 3 striking the period at the end of subparagraph (I)
 4 and inserting “, or”, and by inserting after subpara-
 5 graph (I) the following new subparagraph:

6 “(J) expenditures for which a deduction is
 7 allowed under section 179C.”.

8 (5) Section 312(k)(3)(B) of such Code is
 9 amended by striking “section 179, 179A, or 179B”
 10 each place it appears in the heading and text and in-
 11 serting “section 179, 179A, 179B, or 179C”.

12 (c) CLERICAL AMENDMENT.—The table of sections
 13 for part VI of subchapter B of chapter 1 of the Internal
 14 Revenue Code of 1986 is amended by inserting after sec-
 15 tion 179B the following new item:

 “179C. Energy efficient commercial buildings deduction.”.

16 (d) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to property placed in service after
 18 the date of the enactment of this Act in taxable years end-
 19 ing after such date.

20 **SEC. 102. CREDIT FOR CONSTRUCTION OF NEW ENERGY EF-**
 21 **FICIENT HOMES.**

22 (a) IN GENERAL.—Subpart D of part IV of sub-
 23 chapter A of chapter 1 of the Internal Revenue Code of
 24 1986 (relating to business related credits) is amended by
 25 adding at the end the following new section:

1 **“SEC. 45J. NEW ENERGY EFFICIENT HOME CREDIT.**

2 “(a) IN GENERAL.—For purposes of section 38, in
3 the case of an eligible contractor with respect to a quali-
4 fied new energy efficient home, the credit determined
5 under this section for the taxable year with respect to such
6 home is an amount equal to the aggregate adjusted bases
7 of all energy efficient property installed in such home dur-
8 ing construction of such home.

9 “(b) LIMITATIONS.—

10 “(1) MAXIMUM CREDIT.—

11 “(A) IN GENERAL.—The credit allowed by
12 this section with respect to a dwelling unit shall
13 not exceed—

14 “(i) in the case of a dwelling unit de-
15 scribed in clause (i) or (iii) of subsection
16 (c)(3)(C), \$1,000, and

17 “(ii) in the case of a dwelling unit de-
18 scribed in clause (ii) or (iv) of subsection
19 (c)(3)(C), \$2,000.

20 “(B) PRIOR CREDIT AMOUNTS ON SAME
21 DWELLING UNIT TAKEN INTO ACCOUNT.—If a
22 credit was allowed under subsection (a) with re-
23 spect to a dwelling unit in 1 or more prior tax-
24 able years, the amount of the credit otherwise
25 allowable for the taxable year with respect to
26 such dwelling unit shall be reduced by the sum

1 of the credits allowed under subsection (a) with
2 respect to the dwelling unit for all prior taxable
3 years.

4 “(2) COORDINATION WITH CERTAIN CREDITS.—
5 For purposes of this section—

6 “(A) the basis of any property referred to
7 in subsection (a) shall be reduced by that por-
8 tion of the basis of any property which is attrib-
9 utable to qualified rehabilitation expenditures
10 (as defined in section 47(c)(2)) or to the energy
11 percentage of energy property (as determined
12 under section 48(a)), and

13 “(B) expenditures taken into account
14 under section 47 or 48(a) shall not be taken
15 into account under this section.

16 “(c) DEFINITIONS.—For purposes of this section—

17 “(1) ELIGIBLE CONTRACTOR.—The term ‘eligi-
18 ble contractor’ means—

19 “(A) the person who constructed the quali-
20 fied new energy efficient home, or

21 “(B) in the case of a qualified new energy
22 efficient home which is a manufactured home,
23 the manufactured home producer of such home.

24 If more than 1 person is described in subparagraph
25 (A) or (B) with respect to any qualified new energy

1 efficient home, such term means the person des-
2 ignated as such by the owner of such home.

3 “(2) ENERGY EFFICIENT PROPERTY.—The
4 term ‘energy efficient property’ means any energy
5 efficient building envelope component, and any en-
6 ergy efficient heating or cooling equipment or sys-
7 tem, which can, individually or in combination with
8 other components, result in a dwelling unit meeting
9 the requirements of this section.

10 “(3) QUALIFIED NEW ENERGY EFFICIENT
11 HOME.—The term ‘qualified new energy efficient
12 home’ means a dwelling unit—

13 “(A) located in the United States,

14 “(B) the construction of which is substan-
15 tially completed after the date of the enactment
16 of this section, and

17 “(C) which is—

18 “(i) certified to have a level of annual
19 heating and cooling energy consumption
20 which is at least 30 percent below the an-
21 nual level of heating and cooling energy
22 consumption of a comparable dwelling unit
23 constructed in accordance with the stand-
24 ards of chapter 4 of the 2003 International
25 Energy Conservation Code, as such Code

1 (including supplements) is in effect on the
2 date of the enactment of this section, and
3 for which the heating and cooling equip-
4 ment efficiencies correspond to the min-
5 imum allowed under the regulations estab-
6 lished by the Department of Energy pursu-
7 ant to the National Appliance Energy Con-
8 servation Act of 1987 and in effect at the
9 time of construction, and to have building
10 envelope component improvements account
11 for at least $\frac{1}{3}$ of such 30 percent,

12 “(ii) certified to have a level of annual
13 heating and cooling energy consumption
14 which is at least 50 percent below such an-
15 nual level and to have building envelope
16 component improvements account for at
17 least $\frac{1}{5}$ of such 50 percent,

18 “(iii) a manufactured home which
19 meets the requirements of clause (i) and
20 which conforms to Federal Manufactured
21 Home Construction and Safety Standards
22 (section 3280 of title 24, Code of Federal
23 Regulations), or

24 “(iv) a manufactured home which
25 meets the requirements of clause (ii) and

1 which conforms to Federal Manufactured
2 Home Construction and Safety Standards
3 (section 3280 of title 24, Code of Federal
4 Regulations).

5 “(4) CONSTRUCTION.—The term ‘construction’
6 includes substantial reconstruction and rehabilita-
7 tion.

8 “(5) ACQUIRE.—The term ‘acquire’ includes
9 purchase and, in the case of reconstruction and re-
10 habilitation, such term includes a binding written
11 contract for such reconstruction or rehabilitation.

12 “(6) BUILDING ENVELOPE COMPONENT.—The
13 term ‘building envelope component’ means—

14 “(A) any insulation material or system
15 which is specifically and primarily designed to
16 reduce the heat loss or gain of a dwelling unit
17 when installed in or on such dwelling unit,

18 “(B) exterior windows (including sky-
19 lights),

20 “(C) exterior doors, and

21 “(D) any metal roof installed on a dwelling
22 unit, but only if such roof has appropriate pig-
23 mented coatings which—

1 “(i) are specifically and primarily de-
2 signed to reduce the heat gain of such
3 dwelling unit, and

4 “(ii) meet the Energy Star program
5 requirements.

6 “(d) CERTIFICATION.—

7 “(1) METHOD OF CERTIFICATION.—A certifi-
8 cation described in subsection (c)(3)(C) shall be de-
9 termined in accordance with guidance prescribed by
10 the Secretary, after consultation with the Secretary
11 of Energy. Such guidance shall specify procedures
12 and methods for calculating energy and cost savings.

13 “(2) FORM.—A certification described in sub-
14 section (c)(3)(C) shall be made in writing in a man-
15 ner which specifies in readily verifiable fashion the
16 energy efficient building envelope components and
17 energy efficient heating or cooling equipment in-
18 stalled and their respective rated energy efficiency
19 performance.

20 “(e) BASIS ADJUSTMENT.—For purposes of this sub-
21 title, if a credit is determined under this section for any
22 expenditure with respect to any property, the increase in
23 the basis of such property which would (but for this sub-
24 section) result from such expenditure shall be reduced by
25 the amount of the credit so determined.

1 “(f) SPECIAL RULE WITH RESPECT TO BUILDINGS
2 WITH ENERGY EFFICIENT PROPERTY.—In any case in
3 which a deduction under section 200 or a credit under sec-
4 tion 25C has been allowed with respect to property in con-
5 nection with a dwelling unit, the level of annual heating
6 and cooling energy consumption of the comparable dwell-
7 ing unit referred to in clauses (i) and (ii) of subsection
8 (c)(3)(C) shall be determined assuming such comparable
9 dwelling unit contains the property for which such deduc-
10 tion or credit has been allowed.

11 “(g) APPLICATION OF SECTION.—

12 “(1) 50 PERCENT HOMES.—In the case of any
13 dwelling unit described in clause (ii) or (iv) of sub-
14 section (c)(3)(C), subsection (a) shall apply to quali-
15 fied new energy efficient homes acquired during the
16 period beginning on the date of the enactment of
17 this section, and ending on December 31, 2009.

18 “(2) 30 PERCENT HOMES.—In the case of any
19 dwelling unit described in clause (i) or (iii) of sub-
20 section (c)(3)(C), subsection (a) shall apply to quali-
21 fied new energy efficient homes acquired during the
22 period beginning on the date of the enactment of
23 this section, and ending on December 31, 2007.”.

24 (b) CREDIT MADE PART OF GENERAL BUSINESS
25 CREDIT.—Section 38(b) of the Internal Revenue Code of

1 1986 (relating to current year business credit) is amended
2 by striking “plus” at the end of paragraph (18), by strik-
3 ing the period at the end of paragraph (19) and inserting
4 “, plus”, and by adding at the end the following new para-
5 graph:

6 “(20) the new energy efficient home credit de-
7 termined under section 45J(a).”.

8 (c) BASIS ADJUSTMENT.—Subsection (a) of section
9 1016 of the Internal Revenue Code of 1986, as amended
10 by section 101, is amended by striking “and” at the end
11 of paragraph (31), by striking the period at the end of
12 paragraph (32) and inserting “, and”, and by adding at
13 the end the following new paragraph:

14 “(33) to the extent provided in section 45J(e),
15 in the case of amounts with respect to which a credit
16 has been allowed under section 45J.”.

17 (d) DEDUCTION FOR CERTAIN UNUSED BUSINESS
18 CREDITS.—Section 196(c) of the Internal Revenue Code
19 of 1986 (defining qualified business credits) is amended
20 by striking “and” at the end of paragraph (11), by strik-
21 ing the period at the end of paragraph (12) and inserting
22 “, and”, and by adding after paragraph (12) the following
23 new paragraph:

24 “(13) the new energy efficient home credit de-
25 termined under section 45J(a).”.

1 (e) CLERICAL AMENDMENT.—The table of sections
 2 for subpart D of part IV of subchapter A of chapter 1
 3 of the Internal Revenue Code of 1986 is amended by add-
 4 ing at the end the following new item:

“45J. New energy efficient home credit.”.

5 (f) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply to taxable years ending after the
 7 date of the enactment of this Act.

8 **SEC. 103. INCENTIVE FOR CERTAIN ENERGY EFFICIENT**
 9 **PROPERTY USED IN BUSINESS.**

10 (a) IN GENERAL.—Part VI of subchapter B of chap-
 11 ter 1 of the Internal Revenue Code of 1986 is amended
 12 by adding at the end the following new section:

13 **“SEC. 200. ENERGY PROPERTY DEDUCTION.**

14 “(a) IN GENERAL.—There shall be allowed as a de-
 15 duction for the taxable year an amount equal to the sum
 16 of—

17 “(1) the amount determined under subsection
 18 (b) for each energy property of the taxpayer placed
 19 in service during such taxable year, and

20 “(2) the energy efficient residential rental
 21 building property deduction determined under sub-
 22 section (e).

23 “(b) AMOUNT FOR ENERGY PROPERTY.—

24 “(1) IN GENERAL.—The amount determined
 25 under this subsection for the taxable year for each

1 item of energy property shall equal the amount spec-
 2 ified for such property in the following table:

Description of property:	Allowable amount is:
Elected solar hot water property	\$1.00 per each kwh/year of sav- ings
Photovoltaic property	\$4.50 per peak watt
Advanced main air circulating fan or a Tier 1 natural gas, propane, or oil water heater.	\$150
Tier 2 energy-efficient building property	\$900
Tier 1 energy-efficient building property (other than an advanced main air circulating fan or a natural gas, propane, or oil water heater).	\$450.

3 “(2) ELECTED SOLAR HOT WATER PROP-
 4 erty.—In the case of elected solar hot water prop-
 5 erty, the taxpayer may elect to substitute ‘\$21 per
 6 annual Therm of natural gas savings’ for ‘\$1.00 per
 7 each kwh/year of savings’ in the table contained in
 8 paragraph (1).

9 “(c) ENERGY PROPERTY DEFINED.—

10 “(1) IN GENERAL.—For purposes of this part,
 11 the term ‘energy property’ means any property—

12 “(A) which is—

13 “(i) solar energy property,

14 “(ii) Tier 2 energy-efficient building
 15 property,

16 “(iii) Tier 1 energy-efficient building
 17 property, or

18 “(iv) an advanced main air circulating
 19 fan,

1 “(B)(i) the construction, reconstruction, or
2 erection of which is completed by the taxpayer,
3 or

4 “(ii) which is acquired by the taxpayer if
5 the original use of such property commences
6 with the taxpayer,

7 “(C) with respect to which depreciation (or
8 amortization in lieu of depreciation) is allow-
9 able, and

10 “(D) which meets the performance and
11 quality standards, and the certification require-
12 ments (if any), which—

13 “(i) have been prescribed by the Sec-
14 retary by regulations (after consultation
15 with the Secretary of Energy or the Ad-
16 ministrator of the Environmental Protec-
17 tion Agency, as appropriate),

18 “(ii) in the case of the energy effi-
19 ciency ratio (EER) for central air condi-
20 tioners and electric heat pumps—

21 “(I) require measurements to be
22 based on published data which is test-
23 ed by manufacturers at 95 degrees
24 Fahrenheit, and

1 “(II) may be based on the cer-
2 tified data of the Air Conditioning
3 and Refrigeration Institute that are
4 prepared in partnership with the Con-
5 sortium for Energy Efficiency,

6 “(iii) in the case of geothermal heat
7 pumps—

8 “(I) shall be based on testing
9 under the conditions of ARI/ISO
10 Standard 13256–1 for Water Source
11 Heat Pumps or ARI 870 for Direct
12 Expansion GeoExchange Heat Pumps
13 (DX), as appropriate, and

14 “(II) shall include evidence that
15 water heating services have been pro-
16 vided through a desuperheater or inte-
17 grated water heating system con-
18 nected to the storage water heater
19 tank, and

20 “(iv) are in effect at the time of the
21 acquisition of the property.

22 “(2) SOLAR ENERGY PROPERTY.—In the case
23 of—

24 “(A) elected solar hot water property, the
25 regulations under paragraph (1)(D) shall be

1 based on the OG–300 Standard for the Annual
 2 Performance of OG–300 Certified Systems of
 3 the Solar Rating and Certification Corporation,
 4 and

5 “(B) photovoltaics, such regulations shall
 6 be based on the ASTM Standard E 1036 and
 7 E 1036M–96 Standard Test Method for Elec-
 8 tric Performance of Nonconcentrator Terres-
 9 trial Photovoltaic Modules and Arrays Using
 10 Reference Cells,

11 to the extent the Secretary determines such stand-
 12 ards carry out the purposes of this section.

13 “(3) EXCEPTION.—Such term shall not include
 14 any property which is public utility property (as de-
 15 fined in section 46(f)(5) as in effect on the day be-
 16 fore the date of the enactment of the Revenue Rec-
 17 onciliation Act of 1990).

18 “(d) DEFINITIONS RELATING TO TYPES OF ENERGY
 19 PROPERTY.—For purposes of this section—

20 “(1) SOLAR ENERGY PROPERTY.—

21 “(A) IN GENERAL.—The term ‘solar en-
 22 ergy property’ means equipment which uses
 23 solar energy—

24 “(i) to generate electricity, or

1 “(ii) to provide hot water for use in a
2 structure.

3 “(B) ELECTED SOLAR HOT WATER PROP-
4 PERTY.—

5 “(i) IN GENERAL.—The term ‘elected
6 solar hot water property’ means property
7 which is solar energy property by reason of
8 subparagraph (A)(ii) and for which an
9 election under this subparagraph is in ef-
10 fect.

11 “(ii) ELECTION.—For purposes of
12 clause (i), a taxpayer may elect to treat
13 property described in clause (i) as elected
14 solar hot water property.

15 “(C) PHOTOVOLTAIC PROPERTY.—The
16 term ‘photovoltaic property’ means solar energy
17 property which uses a solar photovoltaic process
18 to generate electricity.

19 “(D) SWIMMING POOLS, ETC., USED AS
20 STORAGE MEDIUM.—The term ‘solar energy
21 property’ shall not include a swimming pool,
22 hot tub, or any other energy storage medium
23 which has a function other than the function of
24 such storage.

1 “(E) SOLAR PANELS.—No solar panel or
2 other property installed as a roof (or portion
3 thereof) shall fail to be treated as solar energy
4 property solely because it constitutes a struc-
5 tural component of the structure on which it is
6 installed.

7 “(2) TIER 2 ENERGY-EFFICIENT BUILDING
8 PROPERTY.—The term ‘Tier 2 energy-efficient build-
9 ing property’ means—

10 “(A) an electric heat pump water heater
11 which yields an energy factor of at least 2.0 in
12 the standard Department of Energy test proce-
13 dure,

14 “(B) an electric heat pump which has a
15 heating seasonal performance factor (HSPF) of
16 at least 9, a seasonal energy efficiency ratio
17 (SEER) of at least 15, and an energy efficiency
18 ratio (EER) of at least 13,

19 “(C) a geothermal heat pump which—

20 “(i) in the case of a closed loop prod-
21 uct, has an energy efficiency ratio (EER)
22 of at least 14.1 and a heating coefficient of
23 performance (COP) of at least 3.3,

24 “(ii) in the case of an open loop prod-
25 uct, has an energy efficiency ratio (EER)

1 of at least 16.2 and a heating coefficient of
2 performance (COP) of at least 3.6, and

3 “(iii) in the case of a direct expansion
4 (DX) product, has an energy efficiency
5 ratio (EER) of at least 15 and a heating
6 coefficient of performance (COP) of at
7 least 3.5,

8 “(D) a central air conditioner which has a
9 seasonal energy efficiency ratio (SEER) of at
10 least 15 and an energy efficiency ratio (EER)
11 of at least 13, and

12 “(E) a natural gas, propane, or oil water
13 heater which has an energy factor of at least
14 0.80.

15 “(3) TIER 1 ENERGY-EFFICIENT BUILDING
16 PROPERTY.—The term ‘Tier 1 energy-efficient build-
17 ing property’ means—

18 “(A) an electric heat pump which has a
19 heating system performance factor (HSPF) of
20 at least 8.5, a cooling seasonal energy efficiency
21 ratio (SEER) of at least 14, and an energy effi-
22 ciency ratio (EER) of at least 12,

23 “(B) a central air conditioner which has a
24 cooling seasonal energy efficiency ratio (SEER)

1 of at least 14 and an energy efficiency ratio
2 (EER) of at least 12,

3 “(C) a natural gas, propane, or oil water
4 heater which has an energy factor of at least
5 0.65, and

6 “(D) an oil, natural gas, or propane fur-
7 nace or hot water boiler which achieves at least
8 95 percent annual fuel utilization efficiency
9 (AFUE).

10 “(4) ADVANCED MAIN AIR CIRCULATING FAN.—

11 The term ‘advanced main air circulating fan’ means
12 a fan used in a natural gas, propane, or oil furnace
13 originally placed in service by the taxpayer during
14 the taxable year, including a fan which uses a
15 brushless permanent magnet motor or another type
16 of motor which achieves similar or higher efficiency
17 at full and half speed, as determined by the Sec-
18 retary.

19 “(e) ENERGY EFFICIENT RESIDENTIAL RENTAL
20 BUILDING PROPERTY DEDUCTION.—

21 “(1) DEDUCTION ALLOWED.—For purposes of
22 subsection (a)—

23 “(A) IN GENERAL.—The energy efficient
24 residential rental building property deduction
25 determined under this subsection is an amount

1 equal to energy efficient residential rental build-
2 ing property expenditures made by a taxpayer
3 for the taxable year.

4 “(B) MAXIMUM AMOUNT OF DEDUC-
5 TION.—The amount of energy efficient residen-
6 tial rental building property expenditures taken
7 into account under subparagraph (A) with re-
8 spect to each dwelling unit shall not exceed—

9 “(i) \$6,000 in the case of a percent-
10 age reduction of 50 percent as determined
11 under paragraph (2)(B), and

12 “(ii) \$12,000 times the percentage re-
13 duction in the case of a percentage reduc-
14 tion of less than 50 percent as determined
15 under paragraph (2)(B).

16 “(C) YEAR DEDUCTION ALLOWED.—The
17 deduction under subparagraph (A) shall be al-
18 lowed in the taxable year in which the construc-
19 tion, reconstruction, erection, or rehabilitation
20 of the property is completed.

21 “(2) ENERGY EFFICIENT RESIDENTIAL RENTAL
22 BUILDING PROPERTY EXPENDITURES.—For pur-
23 poses of this subsection—

24 “(A) IN GENERAL.—The term ‘energy effi-
25 cient residential rental building property ex-

1 penditures’ means an amount paid or incurred
2 in connection with construction, reconstruction,
3 erection, or rehabilitation of energy efficient
4 residential rental building property—

5 “(i) for which depreciation is allow-
6 able under section 167,

7 “(ii) which is located in the United
8 States, and

9 “(iii) the construction, reconstruction,
10 erection, or rehabilitation of which is com-
11 pleted by the taxpayer.

12 Such term includes expenditures for labor costs
13 properly allocable to the onsite preparation, as-
14 sembly, or original installation of the property.

15 “(B) ENERGY EFFICIENT RESIDENTIAL
16 RENTAL BUILDING PROPERTY.—

17 “(i) IN GENERAL.—The term ‘energy
18 efficient residential rental building prop-
19 erty’ means any property which reduces
20 total annual energy and power costs with
21 respect to heating and cooling of the build-
22 ing by a percentage certified according to
23 clause (ii).

24 “(ii) PROCEDURES.—

1 “(I) IN GENERAL.—For purposes
2 of clause (i), energy usage and costs
3 shall be demonstrated by perform-
4 ance-based compliance.

5 “(II) PERFORMANCE-BASED COM-
6 PLIANCE.—Performance-based compli-
7 ance shall be demonstrated by calcu-
8 lating the percent energy cost savings
9 for heating and cooling, as applicable,
10 with respect to a dwelling unit when
11 compared to the original condition of
12 the dwelling unit.

13 “(III) COMPUTER SOFTWARE.—
14 Computer software shall be used in
15 support of performance-based compli-
16 ance under subclause (II) and such
17 software shall meet all of the proce-
18 dures and methods for calculating en-
19 ergy savings reductions which are pro-
20 mulgated by the Secretary of Energy.
21 Such regulations on the specifications
22 for software and verification protocols
23 shall be based on the 2005 California
24 Residential Alternative Calculation
25 Method Approval Manual.

1 “(IV) CALCULATION REQUIRE-
2 MENTS.—In calculating tradeoffs and
3 energy performance, the regulations
4 prescribed under this clause shall pre-
5 scribe for the taxable year the costs
6 per unit of energy and power, such as
7 kilowatt hour, kilowatt, gallon of fuel
8 oil, and cubic foot or Btu of natural
9 gas, which may be dependent on time
10 of usage. Where a State has developed
11 annual energy usage and cost calcula-
12 tion procedures based on time of
13 usage costs for use in the performance
14 standards of the State’s building en-
15 ergy code prior to the effective date of
16 this section, the State may use those
17 annual energy usage and cost calcula-
18 tion procedures in lieu of those adopt-
19 ed by the Secretary.

20 “(V) APPROVAL OF SOFTWARE
21 SUBMISSIONS.—The Secretary shall
22 approve software submissions which
23 comply with the requirements of sub-
24 clause (III).

1 “(VI) PROCEDURES FOR INSPEC-
2 TION AND TESTING OF HOMES.—The
3 Secretary shall ensure that procedures
4 for the inspection and testing for com-
5 pliance comply with the calculation re-
6 quirements under subclause (IV) of
7 this clause and clause (iv).

8 “(iii) DETERMINATIONS OF COMPLI-
9 ANCE.—A determination of compliance
10 with respect to energy efficient residential
11 rental building property made for the pur-
12 poses of this subparagraph shall be filed
13 with the Secretary not later than 1 year
14 after the date of such determination and
15 shall include the TIN of the certifier, the
16 address of the building in compliance, and
17 the identity of the person for whom such
18 determination was performed. Determina-
19 tions of compliance filed with the Secretary
20 shall be available for inspection by the Sec-
21 retary of Energy.

22 “(iv) COMPLIANCE.—

23 “(I) IN GENERAL.—The Sec-
24 retary, after consultation with the
25 Secretary of Energy, shall establish

1 requirements for certification and
2 compliance procedures after exam-
3 ining the requirements for energy con-
4 sultants and home energy ratings pro-
5 viders specified by the Mortgage In-
6 dustry National Home Energy Rating
7 Standards.

8 “(II) INDIVIDUALS QUALIFIED
9 TO DETERMINE COMPLIANCE.—The
10 determination of compliance may be
11 provided by a local building regulatory
12 authority, a utility, a manufactured
13 home production inspection primary
14 inspection agency (IPIA), or an ac-
15 credited home energy rating system
16 provider. All providers shall be accred-
17 ited, or otherwise authorized to use
18 approved energy performance meas-
19 urement methods, by the Residential
20 Energy Services Network (RESNET).

21 “(C) ALLOCATION OF DEDUCTION FOR
22 PUBLIC PROPERTY.—In the case of energy effi-
23 cient residential rental building property which
24 is public property, the Secretary shall promul-
25 gate a regulation to allow the allocation of the

1 deduction to the person primarily responsible
2 for designing the improvements to the property
3 in lieu of the public entity which is the owner
4 of such property. Such person shall be treated
5 as the taxpayer for purposes of this subsection.

6 “(f) SPECIAL RULES.—For purposes of this sec-
7 tion—

8 “(1) BASIS REDUCTION.—For purposes of this
9 subtitle, if a deduction is allowed under this section
10 with respect to any property, the basis of such prop-
11 erty shall be reduced by the amount of the deduction
12 so allowed.

13 “(2) DOUBLE BENEFIT.—Property which
14 would, but for this paragraph, be eligible for a de-
15 duction under more than one provision of this sec-
16 tion shall be eligible only under one such provision,
17 the provision specified by the taxpayer.

18 “(g) REGULATIONS.—The Secretary shall promul-
19 gate such regulations as necessary to take into account
20 new technologies regarding energy efficiency and renew-
21 able energy for purposes of determining energy efficiency
22 and savings under this section.

23 “(h) TERMINATION.—This section shall not apply
24 with respect to—

1 “(1) any energy property placed in service after
2 December 31, 2009 (December 31, 2005, in the case
3 of Tier 1 energy-efficient building property (other
4 than an oil, natural gas, or propane furnace or hot
5 water boiler described in subsection (d)(3)(D))), and

6 “(2) any energy efficient residential rental
7 building property expenditures in connection with
8 property—

9 “(A) placed in service after December 31,
10 2009, or

11 “(B) the construction, reconstruction, erec-
12 tion, or rehabilitation of which is not completed
13 on or before December 31, 2009.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) Section 48(a)(3)(A) of the Internal Revenue
16 Code of 1986 is amended to read as follows:

17 “(A) which is equipment used to produce,
18 distribute, or use energy derived from a geo-
19 thermal deposit (within the meaning of section
20 613(e)(2)), but only, in the case of electricity
21 generated by geothermal power, up to (but not
22 including) the electrical transmission stage,”.

23 (2) Subparagraph (B) of section 168(e)(3) of
24 such Code is amended—

25 (A) in clause (vi)(I)—

1 (i) by striking “section 48(a)(3)” and
2 inserting “section 200(d)(1)”, and

3 (ii) by striking “clause (i)” and in-
4 serting “such subparagraph (A)”, and

5 (B) in the last sentence, by striking “sec-
6 tion 48(a)(3)” and inserting “section
7 200(c)(3)”.

8 (3) Section 1016(a) of such Code, as amended
9 by section 102, is amended by striking “and” at the
10 end of paragraph (32), by striking the period at the
11 end of paragraph (33) and inserting “, and”, and by
12 inserting the following new paragraph:

13 “(34) for amounts allowed as a deduction under
14 section 200(a).”.

15 (c) CLERICAL AMENDMENT.—The table of sections
16 for part VI of subchapter B of chapter 1 of the Internal
17 Revenue Code of 1986 is amended by adding at the end
18 the following new item:

“200. Energy property deduction.”.

19 (d) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the Department of
21 Energy out of amounts not already appropriated such
22 sums as necessary to carry out this section.

23 (e) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 2004.

1 **SEC. 104. CREDIT FOR CERTAIN NONBUSINESS ENERGY**
2 **PROPERTY.**

3 (a) IN GENERAL.—Subpart A of part IV of sub-
4 chapter A of chapter 1 of the Internal Revenue Code of
5 1986 (relating to nonrefundable personal credits) is
6 amended by inserting after section 25B the following new
7 section:

8 **“SEC. 25C. NONBUSINESS ENERGY PROPERTY.**

9 “(a) ALLOWANCE OF CREDIT.—

10 “(1) IN GENERAL.—In the case of an indi-
11 vidual, there shall be allowed as a credit against the
12 tax imposed by this chapter for the taxable year an
13 amount equal to the sum of—

14 “(A) the amount determined under sub-
15 section (b) for each qualified energy property of
16 the taxpayer placed in service during such tax-
17 able year, and

18 “(B) so much of the credit amount speci-
19 fied in paragraph (2) which does not exceed the
20 expenditures made by the taxpayer in connec-
21 tion with the construction, reconstruction, erec-
22 tion, or rehabilitation of a dwelling unit of the
23 taxpayer which results in the unit being a high-
24 ly energy-efficient principal residence.

25 For purposes of subparagraph (B), the expenditures
26 may include labor costs properly allocable to the on-

1 site preparation, assembly, or original installation of
2 such property.

3 “(2) CREDIT AMOUNT.—The credit amount
4 with respect to a highly energy-efficient principal
5 residence is—

6 “(A) \$2,000 in the case of a percentage re-
7 duction of 50 percent as determined under sub-
8 section (e)(6)(A)(iii), and

9 “(B) \$4,000 times the percentage reduc-
10 tion in the case of a percentage reduction of
11 less than 50 percent as determined under sub-
12 section (e)(6)(A)(iii).

13 “(b) AMOUNT FOR QUALIFIED ENERGY PROP-
14 erty.—

15 “(1) RESIDENTIAL ENERGY PROPERTY EX-
16 PENDITURES.—Except as provided in paragraph (2),
17 the amount determined under this subsection for the
18 taxable year for each item of qualified energy prop-
19 erty shall equal the amount of residential energy
20 property expenditures made by the taxpayer with re-
21 spect to such property during such taxable year.

22 “(2) SOLAR HOT WATER PROPERTY; PHOTO-
23 VOLTAIC PROPERTY.—

24 “(A) IN GENERAL.—In the case of solar
25 hot water property and photovoltaic property,

1 the amount determined under this subsection
 2 for the taxable year shall equal the amount
 3 specified for such property in the following
 4 table:

Description of property:	Allowable amount is:
Elected solar hot water property	35¢ per each kwh/ year of savings
Photovoltaic property	\$1.50 per peak watt.

5 “(B) ELECTED SOLAR HOT WATER PROP-
 6 ERTY.—In the case of elected solar hot water
 7 property (as defined in section 200(d)(1)(B)),
 8 the taxpayer may elect to substitute ‘\$7 per an-
 9 nual Therm of natural gas savings’ for ‘35¢ per
 10 each kwh/year of savings’ in the table contained
 11 in subparagraph (A).

12 “(3) MAXIMUM AMOUNT.—In the case of prop-
 13 erty described in the following table, the amount of
 14 expenditures taken into account under paragraph
 15 (1) and the amount determined under paragraph (2)
 16 for the taxable year for each item of qualified energy
 17 property with respect to a dwelling unit shall not ex-
 18 ceed the amount specified for such property in such
 19 table:

Description of property item:	Maximum allowable credit amount is:
Tier 2 energy-efficient building property	\$300
Advanced main air circulating fan or a Tier 1 natural gas, propane, or oil water heater.	\$50

Description of property item:	Maximum allowable credit amount is:
Tier 1 energy-efficient building property (other than an advanced main air circulating fan or a natural gas, propane, or oil water heater).	\$150
Solar hot water property	\$1,000
Photovoltaic property	\$6,000.

1 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
2 poses of this section—

3 “(1) RESIDENTIAL ENERGY PROPERTY EX-
4 PENDITURES.—The term ‘residential energy prop-
5 erty expenditures’ means expenditures made by the
6 taxpayer for qualified energy property installed on or
7 in connection with a dwelling unit which—

8 “(A) is located in the United States, and

9 “(B) is used as a principal residence.

10 Such term includes expenditures for labor costs
11 properly allocable to the onsite preparation, assem-
12 bly, or original installation of the property.

13 “(2) QUALIFIED ENERGY PROPERTY.—

14 “(A) IN GENERAL.—The term ‘qualified
15 energy property’ means—

16 “(i) energy-efficient building property,

17 “(ii) solar hot water property,

18 “(iii) photovoltaic property, and

19 “(iv) an advanced main air circulating
20 fan.

1 “(B) SWIMMING POOL, ETC., USED AS
2 STORAGE MEDIUM; SOLAR PANELS.—For pur-
3 poses of this paragraph, the provisions of sub-
4 paragraphs (D) and (E) section 200(d)(1) shall
5 apply.

6 “(C) REQUIRED STANDARDS.—Property
7 described under subparagraph (A) shall meet
8 the performance and quality standards and cer-
9 tification standards of paragraphs (1)(D) and
10 (2) of section 200(c).

11 “(3) ENERGY-EFFICIENT BUILDING PROP-
12 PERTY.—The term ‘energy-efficient building property’
13 has the same meaning given the terms ‘Tier 2 en-
14 ergy-efficient property’, ‘Tier 1 energy-efficient
15 property’, and ‘advanced main air circulating fan’ in
16 paragraphs (2), (3), and (4) of section 200(d), re-
17 spectively.

18 “(4) SOLAR HOT WATER PROPERTY.—The term
19 ‘solar hot water property’ means property which,
20 when installed in connection with a structure, uses
21 solar energy for the purpose of providing hot water
22 for use within such structure and the performance
23 of which is determined in accordance with section
24 200(c)(2)(A).

1 “(5) PHOTOVOLTAIC PROPERTY.—The term
2 ‘photovoltaic property’ has the same meaning given
3 such term in section 200(d)(1)(C).

4 “(6) HIGHLY ENERGY-EFFICIENT PRINCIPAL
5 RESIDENCE.—

6 “(A) IN GENERAL.—Property is a highly
7 energy-efficient principal residence if—

8 “(i) such property is located in the
9 United States,

10 “(ii) the property is used as a prin-
11 cipal residence, and

12 “(iii) the projected heating and cool-
13 ing energy usage of such property, meas-
14 ured in terms of average annual energy
15 cost to taxpayer, is reduced by a percent-
16 age certified according to subparagraph
17 (C) in comparison to the energy cost of
18 such property if expenditures made by the
19 taxpayer with respect to energy efficient
20 improvements to such property were not
21 made.

22 “(B) PRINCIPAL RESIDENCE.—

23 “(i) IN GENERAL.—The term ‘prin-
24 cipal residence’ has the same meaning as
25 when used in section 121, except that—

1 “(I) no ownership requirement
2 shall be imposed, and

3 “(II) the period for which a
4 building is treated as used as a prin-
5 cipal residence shall also include the
6 60-day period ending on the 1st day
7 on which it would (but for this sub-
8 paragraph) first be treated as used as
9 a principal residence.

10 “(ii) MANUFACTURED HOUSING.—The
11 term ‘residence’ shall include a dwelling
12 unit which is a manufactured home con-
13 forming to Federal Manufactured Home
14 Construction and Safety Standards (24
15 C.F.R. 3280).

16 “(C) CERTIFICATION PROCEDURES.—

17 “(i) IN GENERAL.—For purposes of
18 subparagraph (A)(iii), energy usage shall
19 be demonstrated by performance-based
20 compliance.

21 “(ii) PERFORMANCE-BASED COMPLI-
22 ANCE.—Performance-based compliance
23 shall be demonstrated if the percent energy
24 cost savings for heating and cooling is met
25 with respect to a dwelling unit when com-

1 pared to the original condition of the dwell-
2 ing unit.

3 “(iii) COMPUTER SOFTWARE.—Com-
4 puter software shall be used in support of
5 performance-based compliance under
6 clause (ii) and such software shall meet all
7 of the procedures and methods for calcu-
8 lating energy savings reductions which are
9 promulgated by the Secretary of Energy.
10 Such regulations on the specifications for
11 software and verification protocols shall be
12 based on the 2005 California Residential
13 Alternative Calculation Method Approval
14 Manual.

15 “(iv) CALCULATION REQUIRE-
16 MENTS.—In calculating tradeoffs and en-
17 ergy performance, the regulations shall
18 prescribe the costs per unit of energy and
19 power, such as kilowatt hour, kilowatt, gal-
20 lon of fuel oil, and cubic foot or Btu of
21 natural gas, which may be dependent on
22 time of usage. If a State has developed an-
23 nual energy usage and cost calculation pro-
24 cedures based on time of usage costs for
25 use in the performance standards of the

1 State’s building energy code before the ef-
2 fective date of this section, the State may
3 use those annual energy usage and cost
4 calculation procedures in lieu of those
5 adopted by the Secretary.

6 “(v) APPROVAL OF SOFTWARE SUB-
7 MISSIONS.—The Secretary shall approve
8 software submissions which comply with
9 the calculation requirements of clause (iii).

10 “(vi) PROCEDURES FOR INSPECTION
11 AND TESTING OF DWELLING UNITS.—The
12 Secretary shall ensure that procedures for
13 the inspection and testing for compliance
14 comply with the calculation requirements
15 under clause (iii) and subsection (d)(2).

16 “(d) SPECIAL RULES.—For purposes of this sec-
17 tion—

18 “(1) DETERMINATIONS OF COMPLIANCE.—A
19 determination of compliance made for the purposes
20 of this section shall be filed with the Secretary with-
21 in 1 year of the date of such determination and shall
22 include the TIN of the certifier, the address of the
23 building in compliance, and the identity of the per-
24 son for whom such determination was performed.
25 Determinations of compliance filed with the Sec-

1 retary shall be available for inspection by the Sec-
2 retary of Energy.

3 “(2) COMPLIANCE.—

4 “(A) IN GENERAL.—The Secretary, after
5 consultation with the Secretary of Energy shall
6 establish requirements for certification and
7 compliance procedures after examining the re-
8 quirements for energy consultants and home en-
9 ergy ratings providers specified by the Mort-
10 gage Industry National Home Energy Rating
11 Standards.

12 “(B) INDIVIDUALS QUALIFIED TO DETER-
13 MINE COMPLIANCE.—The determination of
14 compliance may be provided by a local building
15 regulatory authority, a utility, a manufactured
16 home production inspection primary inspection
17 agency (IPIA), or an accredited home energy
18 rating system provider. All providers shall be
19 accredited, or otherwise authorized to use ap-
20 proved energy performance measurement meth-
21 ods, by the Residential Energy Services Net-
22 work (RESNET).

23 “(3) DOLLAR AMOUNTS IN CASE OF JOINT OC-
24 CUPANCY.—In the case of any dwelling unit which if
25 jointly occupied and used during any calendar year

1 as a principal residence by 2 or more individuals the
2 following rules shall apply:

3 “(A) The amount of the credit allowable
4 under subsection (a) by reason of expenditures
5 made during such calendar year by any of such
6 individuals with respect to such dwelling unit
7 shall be determined by treating all of such indi-
8 viduals as 1 taxpayer whose taxable year is
9 such calendar year.

10 “(B) There shall be allowable with respect
11 to such expenditures to each of such individ-
12 uals, a credit under subsection (a) for the tax-
13 able year in which such calendar year ends in
14 an amount which bears the same ratio to the
15 amount determined under subparagraph (A) as
16 the amount of such expenditures made by such
17 individual during such calendar year bears to
18 the aggregate of such expenditures made by all
19 of such individuals during such calendar year.

20 “(4) TENANT-STOCKHOLDER IN COOPERATIVE
21 HOUSING CORPORATION.—In the case of an indi-
22 vidual who is a tenant-stockholder (as defined in sec-
23 tion 216) in a cooperative housing corporation (as
24 defined in such section), such individual shall be
25 treated as having made his tenant-stockholder’s pro-

1 portionate share (as defined in section 216(b)(3)) of
2 any expenditures of such corporation and such credit
3 shall be allocated pro rata to such individual.

4 “(5) CONDOMINIUMS.—

5 “(A) IN GENERAL.—In the case of an indi-
6 vidual who is a member of a condominium man-
7 agement association with respect to a condo-
8 minium which he owns, such individual shall be
9 treated as having made his proportionate share
10 of any expenditures of such association and any
11 credit shall be allocated appropriately.

12 “(B) CONDOMINIUM MANAGEMENT ASSO-
13 CIATION.—For purposes of this paragraph, the
14 term ‘condominium management association’
15 means an organization which meets the require-
16 ments of paragraph (1) of section 528(c) (other
17 than subparagraph (E) thereof) with respect to
18 a condominium project substantially all of the
19 units of which are used as principal residences.

20 “(6) JOINT OWNERSHIP OF ENERGY ITEMS.—

21 “(A) IN GENERAL.—Any expenditure oth-
22 erwise qualifying as an expenditure under this
23 section shall not be treated as failing to so
24 qualify merely because such expenditure was
25 made with respect to 2 or more dwelling units.

1 “(B) LIMITS APPLIED SEPARATELY.—In
2 the case of any expenditure described in sub-
3 paragraph (A), the amount of the credit allow-
4 able under subsection (a) shall (subject to para-
5 graph (1)) be computed separately with respect
6 to the amount of the expenditure made for each
7 dwelling unit.

8 “(7) ALLOCATION IN CERTAIN CASES.—If less
9 than 80 percent of the use of an item is for nonbusi-
10 ness purposes, only that portion of the expenditures
11 for such item which is properly allocable to use for
12 nonbusiness purposes shall be taken into account.

13 “(8) COORDINATION WITH OTHER CREDITS.—
14 Property which would, but for this paragraph, be eli-
15 gible for credit under more than one provision of
16 this section shall be eligible only under one such pro-
17 vision, the provision specified by the taxpayer.

18 “(9) YEAR CREDIT ALLOWED.—The credit
19 under subsection (a)(2) shall be allowed in the tax-
20 able year in which the percentage reduction with re-
21 spect to the principal residence is certified.

22 “(10) WHEN EXPENDITURE MADE; AMOUNT OF
23 EXPENDITURE.—

24 “(A) IN GENERAL.—Except as provided in
25 subparagraph (B), an expenditure with respect

1 to an item shall be treated as made when the
2 original installation of the item is completed.

3 “(B) EXPENDITURES PART OF BUILDING
4 CONSTRUCTION.—In the case of an expenditure
5 in connection with the construction of a struc-
6 ture, such expenditure shall be treated as made
7 when the original use of the constructed struc-
8 ture by the taxpayer begins.

9 “(11) PROPERTY FINANCED BY SUBSIDIZED
10 ENERGY FINANCING.—

11 “(A) REDUCTION OF EXPENDITURES.—

12 “(i) IN GENERAL.—Except as pro-
13 vided in subparagraph (C), for purposes of
14 determining the amount of expenditures
15 made by any individual with respect to any
16 dwelling unit, there shall not be taken into
17 account expenditures which are made from
18 subsidized energy financing.

19 “(ii) SUBSIDIZED ENERGY FINANC-
20 ING.—For purposes of clause (i), the term
21 ‘subsidized energy financing’ has the same
22 meaning given such term in section
23 48(a)(4)(C).

24 “(B) DOLLAR LIMITS REDUCED.—The dol-
25 lar amounts in the table contained in subsection

1 (b)(3) with respect to each property purchased
2 for such dwelling unit for any taxable year of
3 such taxpayer shall be reduced proportionately
4 by an amount equal to the sum of—

5 “(i) the amount of the expenditures
6 made by the taxpayer during such taxable
7 year with respect to such dwelling unit and
8 not taken into account by reason of sub-
9 paragraph (A), and

10 “(ii) the amount of any Federal,
11 State, or local grant received by the tax-
12 payer during such taxable year which is
13 used to make residential energy property
14 expenditures with respect to the dwelling
15 unit and is not included in the gross in-
16 come of such taxpayer.

17 “(C) EXCEPTION FOR STATE PROGRAMS.—

18 Subparagraphs (A) and (B) shall not apply to
19 expenditures made with respect to property for
20 which the taxpayer has received a loan, State
21 tax credit, or grant under any State energy pro-
22 gram.

23 “(e) BASIS ADJUSTMENTS.—For purposes of this
24 subtitle, if a credit is allowed under this section for any
25 expenditure with respect to any property, the increase in

1 the basis of such property which would (but for this sub-
2 section) result from such expenditure shall be reduced by
3 the amount of the credit so allowed.

4 “(f) REGULATIONS.—The Secretary shall promulgate
5 such regulations as necessary to take into account new
6 technologies regarding energy efficiency and renewable en-
7 ergy for purposes of determining energy efficiency and
8 savings under this section.

9 “(g) TERMINATION.—This section shall not apply
10 with respect to any energy property placed in service after
11 December 31, 2009 (December 31, 2005, in the case of
12 Tier 1 energy-efficient building property (other than an
13 oil, natural gas, or propane furnace or hot water boiler
14 described in section 200(d)(3)(D))).”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Subsection (a) of section 1016 of the Inter-
17 nal Revenue Code of 1986, as amended by section
18 103, is amended by striking “and” at the end of
19 paragraph (33), by striking the period at the end of
20 paragraph (34) and inserting “, and”, and by add-
21 ing at the end the following new paragraph:

22 “(35) to the extent provided in section 25C(e),
23 in the case of amounts with respect to which a credit
24 has been allowed under section 25C.”.

1 (relating to energy credit; reforestation credit) is amended
2 by adding at the end the following new subsection:

3 “(c) COMBINED HEAT AND POWER SYSTEM PROP-
4 erty.—For purposes of subsection (a)(3)(A)(ii)—

5 “(1) COMBINED HEAT AND POWER SYSTEM
6 PROPERTY.—The term ‘combined heat and power
7 system property’ means property comprising a sys-
8 tem—

9 “(A) which uses the same energy source
10 for the simultaneous or sequential generation of
11 electrical power, mechanical shaft power, or
12 both, in combination with the generation of
13 steam or other forms of useful thermal energy
14 (including heating and cooling applications),

15 “(B) which has an electrical capacity of
16 not more than 15 megawatts or a mechanical
17 energy capacity of not more than 2,000 horse-
18 power or an equivalent combination of electrical
19 and mechanical energy capacities,

20 “(C) which produces—

21 “(i) at least 20 percent of its total
22 useful energy in the form of thermal en-
23 ergy which is not used to produce electrical
24 or mechanical power (or combination
25 thereof), and

1 “(ii) at least 20 percent of its total
2 useful energy in the form of electrical or
3 mechanical power (or combination thereof),

4 “(D) the energy efficiency percentage of
5 which exceeds 60 percent, and

6 “(E) which is placed in service before Jan-
7 uary 1, 2008.

8 “(2) SPECIAL RULES.—

9 “(A) ENERGY EFFICIENCY PERCENT-
10 AGE.—For purposes of this subsection, the en-
11 ergy efficiency percentage of a system is the
12 fraction—

13 “(i) the numerator of which is the
14 total useful electrical, thermal, and me-
15 chanical power produced by the system at
16 normal operating rates, and expected to be
17 consumed in its normal application, and

18 “(ii) the denominator of which is the
19 lower heating value of the fuel sources for
20 the system.

21 “(B) DETERMINATIONS MADE ON BTU
22 BASIS.—The energy efficiency percentage and
23 the percentages under paragraph (1)(C) shall
24 be determined on a Btu basis.

1 “(C) INPUT AND OUTPUT PROPERTY NOT
2 INCLUDED.—The term ‘combined heat and
3 power system property’ does not include prop-
4 erty used to transport the energy source to the
5 facility or to distribute energy produced by the
6 facility.

7 “(D) PUBLIC UTILITY PROPERTY.—

8 “(i) ACCOUNTING RULE FOR PUBLIC
9 UTILITY PROPERTY.—If the combined heat
10 and power system property is public utility
11 property (as defined in section 168(i)(10)),
12 the taxpayer may only claim the credit
13 under subsection (a) if, with respect to
14 such property, the taxpayer uses a normal-
15 ization method of accounting.

16 “(ii) CERTAIN EXCEPTION NOT TO
17 APPLY.—The matter in subsection (a)(3)
18 which follows subparagraph (D) thereof
19 shall not apply to combined heat and
20 power system property.

21 “(3) SYSTEMS USING BAGASSE.—If a system is
22 designed to use bagasse for at least 90 percent of
23 the energy source—

24 “(A) paragraph (1)(D) shall not apply, but

1 “(B) the amount of credit determined
2 under subsection (a) with respect to such sys-
3 tem shall not exceed the amount which bears
4 the same ratio to such amount of credit (deter-
5 mined without regard to this paragraph) as the
6 energy efficiency percentage of such system
7 bears to 60 percent.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this subsection shall apply to periods after December 31,
10 2004, in taxable years ending after such date, under rules
11 similar to the rules of section 48(m) of the Internal Rev-
12 enue Code of 1986 (as in effect on the day before the date
13 of the enactment of the Revenue Reconciliation Act of
14 1990).

15 **TITLE II—ENERGY EFFICIENT** 16 **PRODUCTS**

17 **SEC. 201. ENERGY CONSERVATION STANDARDS FOR ADDI-** 18 **TIONAL PRODUCTS.**

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

21 (1) in paragraph (30)(S)—

22 (A) by inserting “(i)” before “The term”;

23 and

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

1 “(ii) The term ‘medium base compact fluo-
2 rescent lamp’ does not include—

3 “(I) any lamp that is—

4 “(aa) specifically designed to be
5 used for special purpose applications;
6 and

7 “(bb) unlikely to be used in gen-
8 eral purpose applications, such as the
9 applications described in subpara-
10 graph (D); or

11 “(II) any lamp not described in sub-
12 paragraph (D) that is excluded by the Sec-
13 retary, by rule, because the lamp is—

14 “(aa) designed for special appli-
15 cations; and

16 “(bb) unlikely to be used in gen-
17 eral purpose applications.”; and

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

19 “(32) The term ‘battery charger’ means a de-
20 vice that charges batteries for consumer products,
21 including battery chargers embedded in other con-
22 sumer products.

23 “(33) The term ‘ceiling fan’ means a nonport-
24 able device that is suspended from a ceiling for cir-
25 culating air via the rotation of fan blades.

1 “(34) The term ‘ceiling fan light kit’ means
2 equipment designed to provide light from a ceiling
3 fan that can be—

4 “(A) integral, such that the equipment is
5 attached to the ceiling fan prior to the time of
6 retail sale; or

7 “(B) attachable, such that at the time of
8 retail sale the equipment is not physically at-
9 tached to the ceiling fan, but may be included
10 inside the ceiling fan package at the time of
11 sale or sold separately for subsequent attach-
12 ment to the fan.

13 “(35) The term ‘commercial refrigerators,
14 freezers, and refrigerator-freezers’ means refrig-
15 erators, freezers, or refrigerator-freezers that—

16 “(A) are not consumer products regulated
17 under this Act; and

18 “(B) incorporate most components involved
19 in the vapor-compression cycle and the refrig-
20 erated compartment in a single package.

21 “(36) The term ‘dehumidifier’ means a self-con-
22 tained, electrically operated, and mechanically en-
23 cased assembly consisting of—

24 “(A) a refrigerated surface (evaporator)
25 that condenses moisture from the atmosphere;

1 “(B) a refrigerating system, including an
2 electric motor;

3 “(C) an air-circulating fan; and

4 “(D) means for collecting or disposing of
5 the condensate.

6 “(37)(A) The term ‘distribution transformer’
7 means a transformer that—

8 “(i) has an input voltage of 34.5 kilovolts
9 or less;

10 “(ii) has an output voltage of 600 volts or
11 less; and

12 “(iii) is rated for operation at a frequency
13 of 60 hertz.

14 “(B) The term ‘distribution transformer’ does
15 not include—

16 “(i) a transformer with multiple voltage
17 taps, with the highest voltage tap equaling at
18 least 20 percent more than the lowest voltage
19 tap;

20 “(ii) a transformer that is designed to be
21 used in a special purpose application and is un-
22 likely to be used in general purpose applica-
23 tions, such as a drive transformer, rectifier
24 transformer, auto-transformer, Uninterruptible
25 Power System transformer, impedance trans-

1 former, harmonic transformer, regulating trans-
2 former, sealed and nonventilating transformer,
3 machine tool transformer, welding transformer,
4 grounding transformer, or testing transformer;
5 or

6 “(iii) any transformer not listed in clause
7 (ii) that is excluded by the Secretary by rule be-
8 cause—

9 “(I) the transformer is designed for a
10 special application;

11 “(II) the transformer is unlikely to be
12 used in general purpose applications; and

13 “(III) the application of standards to
14 the transformer would not result in signifi-
15 cant energy savings.

16 “(38) The term ‘external power supply’ means
17 an external power supply circuit that is used to con-
18 vert household electric current into DC current or
19 lower-voltage AC current to operate a consumer
20 product.

21 “(39) The term ‘illuminated exit sign’ means a
22 sign that—

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

1 “(B) consists of an electrically powered in-
2 tegral light source that—

3 “(i) illuminates the legend ‘EXIT’
4 and any directional indicators; and

5 “(ii) provides contrast between the
6 legend, any directional indicators, and the
7 background.

8 “(40) The term ‘low-voltage dry-type distribu-
9 tion transformer’ means a distribution transformer
10 that—

11 “(A) has an input voltage of 600 volts or
12 less;

13 “(B) is air-cooled; and

14 “(C) does not use oil as a coolant.

15 “(41) The term ‘standby mode’ means the low-
16 est power consumption mode, as established on an
17 individual product basis by the Secretary, that—

18 “(A) cannot be switched off or influenced
19 by the user; and

20 “(B) may persist for an indefinite time
21 when an appliance is—

22 “(i) connected to the main electricity
23 supply; and

24 “(ii) used in accordance with the in-
25 structions of the manufacturer.

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

4 “(43) The term ‘traffic signal module’ means a
5 standard 8-inch (200mm) or 12-inch (300mm) traf-
6 fic signal indication that—

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

9 “(B) communicates movement messages to
10 drivers through red, amber, and green colors.

11 “(44) The term ‘transformer’ means a device
12 consisting of 2 or more coils of insulated wire that
13 transfers alternating current by electromagnetic in-
14 duction from 1 coil to another to change the original
15 voltage or current value.

16 “(45)(A) The term ‘unit heater’ means a self-
17 contained fan-type heater designed to be installed
18 within the heated space.

19 “(B) The term ‘unit heater’ does not include a
20 warm air furnace.

21 “(46)(A) The term ‘commercial prerinse spray
22 valve’ means a handheld device designed and mar-
23 keted for use with commercial dishwashing and ware
24 washing equipment that sprays water on dishes, flat-

1 ware, and other food service items for the purpose
2 of removing food residue before cleaning the items.

3 “(B) The Secretary may modify the definition
4 of ‘commercial prerinse spray valve’ by rule—

5 “(i) to include products—

6 “(I) that are extensively used in con-
7 junction with commercial dishwashing and
8 ware washing equipment;

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

12 “(III) the application of standards to
13 which would meet the criteria specified in
14 subsection (o)(4); and

15 “(ii) to exclude products—

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

18 “(II) that are unlikely to be widely
19 used in conjunction with commercial dish-
20 washing and ware washing equipment; and

21 “(III) the application of standards to
22 which would not result in significant en-
23 ergy savings.”.

1 (b) TEST PROCEDURES.—Section 323 of the Energy
2 Policy and Conservation Act (42 U.S.C. 6293) is amend-
3 ed—

4 (1) in subsection (b), by adding at the end the
5 following:

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

10 “(10)(A) Test procedures for distribution trans-
11 formers and low-voltage dry-type distribution trans-
12 formers shall be based on the ‘Standard Test Method for
13 Measuring the Energy Consumption of Distribution
14 Transformers’ prescribed by the National Electrical Man-
15 ufacturers Association (NEMA TP 2–1998).

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

18 “(C) For purposes of section 346(a), the test proce-
19 dures established under subparagraph (A) shall be consid-
20 ered to be the testing requirements prescribed by the Sec-
21 retary under section 346(a)(1) for distribution trans-
22 formers for which the Secretary makes a determination
23 that energy conservation standards would—

24 (i) be technologically feasible and economically
25 justified; and

1 “(ii) result in significant energy savings.

2 “(11) Test procedures for traffic signal modules shall
3 be based on the test method used under the Energy Star
4 program of the Environmental Protection Agency for traf-
5 fic signal modules, as in effect on the date of enactment
6 of this paragraph.

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

12 “(B) Except as provided in subparagraph (C), me-
13 dium-base compact fluorescent lamps shall meet all test
14 requirements for regulated parameters of section 325(bb).

15 “(C) Notwithstanding subparagraph (B), if manufac-
16 turers document engineering predictions and analysis that
17 support expected attainment of lumen maintenance at 40
18 percent rated life and lamp life time, medium-base com-
19 pact fluorescent lamps may be marketed before completion
20 of lamp life and lumen maintenance at 40 percent of rated
21 life testing.

22 “(13) Air movement test procedures for ceiling fans
23 shall be based on the test procedure contained in the En-
24 ergy Star Program Requirements for Residential Ceiling
25 Fans, version 2.0, developed by the Environmental Protec-

1 tion Agency, unless, pursuant to this section, the Sec-
2 retary promulgates an alternative test procedure.

3 “(14) Test procedures for dehumidifiers shall be
4 based on the test criteria used under the Energy Star Pro-
5 gram Requirements for Dehumidifiers developed by the
6 Environmental Protection Agency, as in effect on the date
7 of enactment of this paragraph unless revised by the Sec-
8 retary pursuant to this section.

9 “(15) The test procedure for measuring flow rate for
10 commercial prerinse spray valves shall be based on Amer-
11 ican Society for Testing and Materials Standard F2324,
12 entitled ‘Standard Test Method for Prerinse Spray
13 Valves.’”; and

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

15 “(f) ADDITIONAL CONSUMER AND COMMERCIAL
16 PRODUCTS.—(1) Not later than 2 years after the date of
17 enactment of this subsection, the Secretary shall prescribe
18 testing requirements for—

19 “(A) refrigerated bottled or canned beverage
20 vending machines; and

21 “(B) commercial refrigerators, freezers, and re-
22 frigerator-freezers.

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

1 (c) NEW STANDARDS.—Section 325 of the Energy
2 Policy and Conservation Act (42 U.S.C. 6295) is amended
3 by adding at the end the following:

4 “(u) BATTERY CHARGER AND EXTERNAL POWER
5 SUPPLY ELECTRIC ENERGY CONSUMPTION.—(1)(A) Not
6 later than 18 months after the date of enactment of this
7 subsection, the Secretary shall, after providing notice and
8 an opportunity for comment, prescribe, by rule, definitions
9 and test procedures for the power use of battery chargers
10 and external power supplies.

11 “(B) In establishing the test procedures under sub-
12 paragraph (A), the Secretary shall—

13 “(i) consider existing definitions and test proce-
14 dures used for measuring energy consumption in
15 standby mode and other modes; and

16 “(ii) assess the current and projected future
17 market for battery chargers and external power sup-
18 plies.

19 “(C) The assessment under subparagraph (B)(ii)
20 shall include—

21 “(i) estimates of the significance of potential
22 energy savings from technical improvements to bat-
23 tery chargers and external power supplies; and

24 “(ii) suggested product classes for standards.

1 “(D) Not later than 18 months after the date of en-
2 actment of this subsection, the Secretary shall hold a
3 scoping workshop to discuss and receive comments on
4 plans for developing energy conservation standards for en-
5 ergy use for battery chargers and external power supplies.

6 “(E)(i) Not later than 3 years after the date of enact-
7 ment of this subsection, the Secretary shall issue a final
8 rule that determines whether energy conservation stand-
9 ards shall be issued for battery chargers and external
10 power supplies or classes of battery chargers and external
11 power supplies.

12 “(ii) For each product class, any standards issued
13 under clause (i) shall be set at the lowest level of energy
14 use that—

15 “(I) meets the criteria and procedures of sub-
16 sections (o), (p), (q), (r), (s), and (t); and

17 “(II) would result in significant overall annual
18 energy savings, considering standby mode and other
19 operating modes.

20 “(2) In determining under section 323 whether test
21 procedures and energy conservation standards under this
22 section should be revised with respect to covered products
23 that are major sources of standby mode energy consump-
24 tion, the Secretary shall consider whether to incorporate
25 standby mode into the test procedures and energy con-

1 servation standards, taking into account standby mode
2 power consumption compared to overall product energy
3 consumption.

4 “(3) The Secretary shall not propose a standard
5 under this section unless the Secretary has issued applica-
6 ble test procedures for each product under section 323.

7 “(4) Any standard issued under this subsection shall
8 be applicable to products manufactured or imported begin-
9 ning on the date that is 3 years after the date of issuance.

10 “(5) The Secretary and the Administrator shall col-
11 laborate and develop programs (including Energy Star
12 Programs and other voluntary industry agreements or
13 codes of conduct) that are designed to reduce standby
14 mode energy use.

15 “(v) VENDING MACHINES AND COMMERCIAL RE-
16 FRIGERATORS, FREEZERS, AND REFRIGERATOR-FREEZ-
17 ERS.—(1) Not later than 3 years after the date on which
18 testing requirements are prescribed by the Secretary
19 under section 323(f), the Secretary shall prescribe, by
20 rule, energy conservation standards for—

21 “(A) refrigerated bottled or canned beverage
22 vending machines; and

23 “(B) commercial refrigerators, freezers, and re-
24 frigerator-freezers.

1 “(2) In establishing standards under this subsection,
2 the Secretary shall use the criteria and procedures pre-
3 scribed under subsections (o) and (p).

4 “(3) Any standard prescribed under this subsection
5 shall apply to products manufactured 3 years after the
6 date of publication of a final rule establishing the stand-
7 ard.

8 “(w) ILLUMINATED EXIT SIGNS.—An illuminated
9 exit sign manufactured on or after January 1, 2006, shall
10 meet the version 2.0 Energy Star Program performance
11 requirements for illuminated exit signs prescribed by the
12 Environmental Protection Agency.

13 “(x) TORCHIERES.—A torchiere manufactured on or
14 after January 1, 2006—

15 “(1) shall consume not more than 190 watts of
16 power; and

17 “(2) shall not be capable of operating with
18 lamps that total more than 190 watts.

19 “(y) LOW VOLTAGE DRY-TYPE DISTRIBUTION
20 TRANSFORMERS.—The efficiency of a low voltage dry-type
21 distribution transformer manufactured on or after Janu-
22 ary 1, 2006, shall be the Class I Efficiency Levels for dis-
23 tribution transformers specified in table 4–2 of the ‘Guide
24 for Determining Energy Efficiency for Distribution Trans-

1 formers' published by the National Electrical Manufactur-
2 ers Association (NEMA TP-1-2002).

3 “(z) TRAFFIC SIGNAL MODULES.—A traffic signal
4 module manufactured on or after January 1, 2007,
5 shall—

6 “(1) meet the performance requirements used
7 under the Energy Star program of the Environ-
8 mental Protection Agency for traffic signals, as in
9 effect on the date of enactment of this subsection;
10 and

11 “(2) be installed with compatible, electrically
12 connected signal control interface devices and con-
13 flict monitoring systems.

14 “(aa) UNIT HEATERS.—A unit heater manufactured
15 on or after the date that is 3 years after the date of enact-
16 ment of this subsection shall—

17 “(1) be equipped with an intermittent ignition
18 device; and

19 “(2) have power venting or an automatic flue
20 damper.

21 “(bb) MEDIUM-BASE COMPACT FLUORESCENT
22 LAMPS.—(1) A bare lamp and covered lamp (no reflector)
23 medium-base compact fluorescent lamp manufactured on
24 or after January 1, 2006, shall meet the following require-
25 ments prescribed by the August 9, 2001, version of the

1 Energy Star Program Requirements for Compact Fluores-
2 cent Lamps, Energy Star Eligibility Criteria, Energy-Effi-
3 ciency Specification issued by the Environmental Protec-
4 tion Agency and Department of Energy:

5 “(A) Minimum initial efficacy.

6 “(B) Lumen maintenance at 1,000 hours.

7 “(C) Lumen maintenance at 40 percent of
8 rated life.

9 “(D) Rapid cycle stress test.

10 “(E) Lamp life.

11 “(2) The Secretary may, by rule, establish require-
12 ments for color quality (CRI), power factor, operating fre-
13 quency, and maximum allowable start time based on the
14 requirements prescribed by the August 9, 2001, version
15 of the Energy Star Program Requirements for Compact
16 Fluorescent Lamps.

17 “(3) The Secretary may, by rule—

18 “(A) revise the requirements established under
19 paragraph (2); or

20 “(B) establish other requirements, after consid-
21 ering energy savings, cost effectiveness, and con-
22 sumer satisfaction.

23 “(cc) CEILING FANS AND CEILING FAN LIGHT
24 KITS.—(1)(A) All ceiling fans manufactured on or after
25 January 1, 2008, shall have the following features:

1 “(i) Lighting controls separate from fan speed
2 controls.

3 “(ii) Adjustable speed controls (either more
4 than 1 speed or variable speed).

5 “(iii) The capability of reversible fan action, ex-
6 cept for fans sold for industrial applications, outdoor
7 applications, and where safety standards would be
8 violated by the use of the reversible mode.

9 “(B) The Secretary may promulgate regulations to
10 define in greater detail the exceptions provided under sub-
11 paragraph (A)(iii) but may not substantively expand the
12 exceptions.

13 “(2) Ceiling fan light kits manufactured on or after
14 January 1, 2008, shall—

15 “(A) meet the Energy Star Program Require-
16 ments for Residential Light Fixtures, version 3.1,
17 issued by the Environmental Protection Agency, and
18 be packaged with lamps to fill all sockets;

19 “(B) be packaged with screw-based compact
20 fluorescent lamps to fill all sockets and meet the En-
21 ergy Star Program Requirements for Compact Fluo-
22 rescent Lamps, version 3.0, issued by the Depart-
23 ment of Energy; or

24 “(C) use and be packaged with light sources
25 other than compact fluorescent lamps that meet the

1 minimum efficacy requirements, as measured in
2 lumens per watt, of the Energy Star Program Re-
3 quirements for Compact Fluorescent Lamps, version
4 3.0, issued by the Department of Energy.

5 “(3)(A) Notwithstanding any provision of this Act,
6 if the requirements of subsections (o) and (p) are met,
7 the Secretary may consider and prescribe energy efficiency
8 or energy use standards for electricity used by ceiling fans
9 to circulate air in a room.

10 “(B) If the Secretary sets the standards, the Sec-
11 retary shall consider—

12 “(i) exempting or setting different standards
13 for certain product classes for which the primary
14 standards are not technically feasible or economically
15 justified; and

16 “(ii) establishing separate exempted product
17 classes for highly decorative fans for which air move-
18 ment performance is a secondary design feature.

19 “(C) Any air movement standard prescribed under
20 this subsection shall apply to products manufactured on
21 or after the date that is 3 years after the date of publica-
22 tion of a final rule establishing the standard.

23 “(dd) DEHUMIDIFIERS.—(1) Dehumidifiers manu-
24 factured on or after October 1, 2008, shall have an Energy
25 Factor that meets or exceeds the following values:

“Product Capacity (pints/day):	Minimum Energy Factor (Liters/kWh)
25	1.00
> 25 – 35	1.20
> 35 – 54	1.30
> 54 – < 75	1.50
75	2.25.

1 “(2)(A) Not later than October 1, 2010, the Sec-
 2 retary shall publish a final rule in accordance with sub-
 3 sections (o) and (p), to determine whether the standards
 4 established under paragraph (1) should be amended.

5 “(B) The final rule shall contain any amendment by
 6 the Secretary and shall provide that the amendment shall
 7 apply to products manufactured on or after October 1,
 8 2012.

9 “(C) If the Secretary does not publish an amendment
 10 that takes effect by October 1, 2012, dehumidifiers manu-
 11 factured on or after October 1, 2012, shall have an Energy
 12 Factor that meets or exceeds the following values:

“Product Capacity (pints/day):	Minimum Energy Factor (Liters/kWh)
25	1.20
> 25 – 35	1.30
> 35 – 45	1.40
> 45 – 54	1.50
> 54 – < 75	1.60
75	2.5.

13 “(ee) COMMERCIAL PRERINSE SPRAY VALVES.—
 14 Commercial prerinse spray valves manufactured on or
 15 after January 1, 2006, shall have a flow rate less than
 16 or equal to 1.6 gallons per minute.

17 “(ff) EFFECTIVE DATE.—Section 327 shall apply
 18 to—

1 “(1) a product for which standards are to be
2 established under subsections (u) and (v) on the
3 date on which a final rule is issued by the Depart-
4 ment of Energy, except that any State or local
5 standards prescribed or enacted for the product be-
6 fore the date on which the final rule is issued shall
7 not be preempted until the standard established
8 under subsection (u) or (v) for the product takes ef-
9 fect; and

10 “(2) a product for which standards are estab-
11 lished under subsections (w) through (ee) on the
12 date of enactment of those subsections, except that
13 any State or local standards prescribed or enacted
14 before the date of enactment of those subsections
15 shall not be preempted until the standards estab-
16 lished under subsections (w) through (ee) take ef-
17 fect.”.

18 (d) RESIDENTIAL FURNACE FANS.—Section
19 325(f)(3) of the Energy Policy and Conservation Act (42
20 U.S.C. 6295(f)(3)) is amended by adding at the end the
21 following:

22 “(D) Notwithstanding any other provision of this Act,
23 if the requirements of subsection (o) are met, the Sec-
24 retary may consider and prescribe energy efficiency or en-

1 ergy use standards for electricity used for purposes of cir-
2 culating air through duct work.”.

3 (e) GENERAL RULE OF PREEMPTION.—Section
4 327(c) of the Energy Policy and Conservation Act (42
5 U.S.C. 6297(c)) is amended—

6 (1) in paragraph (5), by striking “or” at the
7 end;

8 (2) in paragraph (6), by striking the period at
9 the end and inserting “; or”; and

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

11 “(7) is a regulation concerning standards for
12 commercial prerinse spray valves adopted by the
13 California Energy Commission before January 1,
14 2005, or is an amendment to such a regulation de-
15 veloped to align California regulations with changes
16 in American Society for Testing and Materials Reg-
17 ulation F2324.”.

18 **SEC. 202. ENERGY LABELING.**

19 (a) RULEMAKING ON EFFECTIVENESS OF CONSUMER
20 PRODUCT LABELING.—Section 324(a)(2) of the Energy
21 Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is
22 amended by adding at the end the following:

23 “(F)(i) Not later than 90 days after the date of en-
24 actment of this subparagraph, the Commission shall ini-
25 tiate a rulemaking to consider—

1 “(I) the effectiveness of the consumer products
2 labeling program in—

3 “(aa) assisting consumers in making pur-
4 chasing decisions; and

5 “(bb) improving energy efficiency; and

6 “(II) changes to the labeling rules that would
7 improve the effectiveness of consumer product labels.

8 “(ii) Not later than 2 years after the date of enact-
9 ment of this subparagraph, the Commission shall complete
10 the rulemaking initiated under clause (i).”.

11 (b) RULEMAKING ON LABELING FOR ADDITIONAL
12 PRODUCTS.—Section 324(a) of the Energy Policy and
13 Conservation Act (42 U.S.C. 6294(a)) is amended by add-
14 ing at the end the following:

15 “(5)(A) After a test procedure has been prescribed
16 under section 323, the Secretary or the Commission, as
17 appropriate, may, for covered products referred to in sub-
18 sections (u) through (ee) of section 325, prescribe, by rule,
19 under this section, labeling requirements for the products.

20 “(B) In the case of products to which TP–1 stand-
21 ards under section 325(y) apply, labeling requirements
22 shall be based on the ‘Standard for the Labeling of Dis-
23 tribution Transformer Efficiency’ prescribed by the Na-
24 tional Electrical Manufacturers Association (NEMA TP–
25 3) as in effect on the date of enactment of this paragraph.

1 “(C) In the case of dehumidifiers covered under sec-
2 tion 325(dd), the Commission shall not require an Energy
3 Guide label.

4 “(6)(A) Not later than July 1, 2006, the Commission
5 shall prescribe by rule, pursuant to this section, labeling
6 requirements for the electricity used by ceiling fans to cir-
7 culate air in a room.

8 “(B) The requirements shall be based on the test pro-
9 cedure and labeling requirements contained in the Energy
10 Star Program Requirements for Residential Ceiling Fans,
11 version 2.0, issued by the Environmental Protection Agen-
12 cy, except that third party testing and other non-labeling
13 requirements shall not be promulgated unless the Commis-
14 sion determines the requirements are necessary to achieve
15 compliance.

16 “(C) The rule shall apply to products manufactured
17 after the later of—

18 “(i) January 1, 2008; or

19 “(ii) the date that is 60 days after the final rule
20 is prescribed.”.

21 **SEC. 203. COMMERCIAL PACKAGE AIR CONDITIONING AND**
22 **HEATING EQUIPMENT.**

23 (a) DEFINITIONS.—Section 340 of the Energy Policy
24 and Conservation Act (42 U.S.C. 6311) is amended—

25 (1) in paragraph (1)—

1 (A) by redesignating subparagraphs (D)
2 through (G) as subparagraphs (E) through (H),
3 respectively; and

4 (B) by inserting after subparagraph (C)
5 the following:

6 “(D) Very large commercial package air
7 conditioning and heating equipment.”;

8 (2) in paragraph (2)(B), by striking “small and
9 large”; and

10 (3) by striking paragraphs (8) and (9) and in-
11 serting the following:

12 “(8)(A) The term ‘commercial package air con-
13 ditioning and heating equipment’ means air-cooled,
14 water-cooled, evaporatively-cooled, or water source
15 (not including ground water source) electrically oper-
16 ated, unitary central air conditioners and central air
17 conditioning heat pumps for commercial application.

18 “(B) The term ‘small commercial package air
19 conditioning and heating equipment’ means commer-
20 cial package air conditioning and heating equipment
21 that is rated below 135,000 Btu per hour (cooling
22 capacity).

23 “(C) The term ‘large commercial package air
24 conditioning and heating equipment’ means commer-
25 cial package air conditioning and heating equipment

1 that is rated at or above 135,000 Btu per hour and
2 below 240,000 Btu per hour (cooling capacity).

3 “(D) The term ‘very large commercial package
4 air conditioning and heating equipment’ means com-
5 mercial package air conditioning and heating equip-
6 ment that is rated at or above 240,000 Btu per hour
7 and below 760,000 Btu per hour (cooling capaci-
8 ty).”.

9 (b) STANDARDS.—Section 342(a) of the Energy Pol-
10 icy and Conservation Act (42 U.S.C. 6313(a)) is amend-
11 ed—

12 (1) in the subsection heading, by striking
13 “Small and Large” and inserting “Small, Large,
14 and Very Large”;

15 (2) in paragraph (1), by inserting “but before
16 January 1, 2010,” after “January 1, 1994,”;

17 (3) in paragraph (2), by inserting “but before
18 January 1, 2010,” after “January 1, 1995,”; and

19 (4) in paragraph (6)—

20 (A) in subparagraph (A)—

21 (i) by inserting “(i)” after “(A)”;

22 (ii) by striking “the date of enactment
23 of the Energy Policy Act of 1992” and in-
24 serting “January 1, 2010”;

1 (iii) by inserting after “large commer-
2 cial package air conditioning and heating
3 equipment” the following: “and very large
4 commercial package air conditioning and
5 heating equipment, or if ASHRAE/IES
6 Standard 90.1, as in effect on October 24,
7 1992, is amended with respect to any”;
8 and

9 (iv) by adding at the end the fol-
10 lowing:

11 “(ii) If ASHRAE/IES Standard 90.1 is not amended
12 with respect to small commercial package air conditioning
13 and heating equipment, large commercial package air con-
14 ditioning and heating equipment, and very large commer-
15 cial package air conditioning and heating equipment dur-
16 ing the 5-year period beginning on the effective date of
17 a standard, the Secretary may initiate a rulemaking to
18 determine whether a more stringent standard would result
19 in significant additional conservation of energy and is
20 technologically feasible and economically justified.”; and

21 (B) in subparagraph (C)(ii), by inserting
22 “and very large commercial package air condi-
23 tioning and heating equipment” after “large
24 commercial package air conditioning and heat-
25 ing equipment”; and

1 (5) by adding at the end the following:

2 “(7) Each small commercial package air conditioning
3 and heating equipment manufactured on or after January
4 1, 2010, shall meet the following standards:

5 “(A) The minimum energy efficiency ratio of
6 air-cooled central air conditioners at or above 65,000
7 Btu per hour (cooling capacity) and less than
8 135,000 Btu per hour (cooling capacity) shall be—

9 “(i) 11.2 for equipment with no heating or
10 electric resistance heating; and

11 “(ii) 11.0 for equipment with all other
12 heating system types that are integrated into
13 the equipment (at a standard rating of 95 de-
14 grees F db).

15 “(B) The minimum energy efficiency ratio of
16 air-cooled central air conditioner heat pumps at or
17 above 65,000 Btu per hour (cooling capacity) and
18 less than 135,000 Btu per hour (cooling capacity)
19 shall be—

20 “(i) 11.0 for equipment with no heating or
21 electric resistance heating; and

22 “(ii) 10.8 for equipment with all other
23 heating system types that are integrated into
24 the equipment (at a standard rating of 95 de-
25 grees F db).

1 “(C) The minimum coefficient of performance
2 in the heating mode of air-cooled central air condi-
3 tioning heat pumps at or above 65,000 Btu per hour
4 (cooling capacity) and less than 135,000 Btu per
5 hour (cooling capacity) shall be 3.3 (at a high tem-
6 perature rating of 47 degrees F db).

7 “(8) Each large commercial package air conditioning
8 and heating equipment manufactured on or after January
9 1, 2010, shall meet the following standards:

10 “(A) The minimum energy efficiency ratio of
11 air-cooled central air conditioners at or above
12 135,000 Btu per hour (cooling capacity) and less
13 than 240,000 Btu per hour (cooling capacity) shall
14 be—

15 “(i) 11.0 for equipment with no heating or
16 electric resistance heating; and

17 “(ii) 10.8 for equipment with all other
18 heating system types that are integrated into
19 the equipment (at a standard rating of 95 de-
20 grees F db).

21 “(B) The minimum energy efficiency ratio of
22 air-cooled central air conditioner heat pumps at or
23 above 135,000 Btu per hour (cooling capacity) and
24 less than 240,000 Btu per hour (cooling capacity)
25 shall be—

1 “(i) 10.6 for equipment with no heating or
2 electric resistance heating; and

3 “(ii) 10.4 for equipment with all other
4 heating system types that are integrated into
5 the equipment (at a standard rating of 95 de-
6 grees F db).

7 “(C) The minimum coefficient of performance
8 in the heating mode of air-cooled central air condi-
9 tioning heat pumps at or above 135,000 Btu per
10 hour (cooling capacity) and less than 240,000 Btu
11 per hour (cooling capacity) shall be 3.2 (at a high
12 temperature rating of 47 degrees F db).

13 “(9) Each very large commercial package air condi-
14 tioning and heating equipment manufactured on or after
15 January 1, 2010, shall meet the following standards:

16 “(A) The minimum energy efficiency ratio of
17 air-cooled central air conditioners at or above
18 240,000 Btu per hour (cooling capacity) and less
19 than 760,000 Btu per hour (cooling capacity) shall
20 be—

21 “(i) 10.0 for equipment with no heating or
22 electric resistance heating; and

23 “(ii) 9.8 for equipment with all other heat-
24 ing system types that are integrated into the

1 equipment (at a standard rating of 95 degrees
2 F db).

3 “(B) The minimum energy efficiency ratio of
4 air-cooled central air conditioner heat pumps at or
5 above 240,000 Btu per hour (cooling capacity) and
6 less than 760,000 Btu per hour (cooling capacity)
7 shall be—

8 “(i) 9.5 for equipment with no heating or
9 electric resistance heating; and

10 “(ii) 9.3 for equipment with all other heat-
11 ing system types that are integrated into the
12 equipment (at a standard rating of 95 degrees
13 F db).

14 “(C) The minimum coefficient of performance
15 in the heating mode of air-cooled central air condi-
16 tioning heat pumps at or above 240,000 Btu per
17 hour (cooling capacity) and less than 760,000 Btu
18 per hour (cooling capacity) shall be 3.2 (at a high
19 temperature rating of 47 degrees F db).”.

20 (c) TEST PROCEDURES.—Section 343 of the Energy
21 Policy and Conservation Act (42 U.S.C. 6314) is amended
22 in subsections (a)(4) and (d)(1), by inserting “very large
23 commercial package air conditioning and heating equip-
24 ment,” after “large commercial package air conditioning
25 and heating equipment,” each place it appears.

1 (d) LABELING.—Section 344(e) of the Energy Policy
2 and Conservation Act (42 U.S.C. 6315(e)) is amended in
3 the first and second sentences, by inserting “very large
4 commercial package air conditioning and heating equip-
5 ment,” after “large commercial package air conditioning
6 and heating equipment,” each place it appears.

7 (e) ADMINISTRATION, PENALTIES, ENFORCEMENT,
8 AND PREEMPTION.—Section 345 of the Energy Policy and
9 Conservation Act (42 U.S.C. 6316) is amended by adding
10 at the end the following:

11 “(d)(1) Except as provided in paragraphs (2) and
12 (3), section 327 shall apply with respect to the equipment
13 specified in section 340(1)(D) to the same extent and in
14 the same manner as section 327 applies under part B on
15 the date of enactment of this subsection.

16 “(2) Any State or local standard prescribed or en-
17 acted prior to the date of enactment of this subsection
18 shall not be preempted until the standards established
19 under section 342(a)(9) take effect on January 1, 2010.

20 “(3) If the California Energy Commission adopts, not
21 later than March 31, 2006, a regulation concerning the
22 energy efficiency or energy use of the equipment specified
23 in section 340(1)(D), the regulation shall be effective
24 until, and shall no longer be effective after, the standards

1 established under section 342(a)(9) take effect on January
2 1, 2010.”.

3 **SEC. 204. COMMERCIAL REFRIGERATORS, FREEZERS, AND**
4 **REFRIGERATOR-FREEZERS.**

5 (a) DEFINITIONS.—Section 340 of the Energy Policy
6 and Conservation Act (42 U.S.C. 6311), as amended by
7 section 203, is amended—

8 (1) in paragraph (1)—

9 (A) by redesignating subparagraph (H) as
10 subparagraph (I); and

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

13 “(H) commercial refrigerators, freezers, and re-
14 frigerator-freezers.”; and

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

16 “(19)(A) The term ‘commercial refrigerator,
17 freezer, and refrigerator-freezer’ means refrigeration
18 equipment that—

19 “(i) is not a consumer product (as defined
20 in section 321);

21 “(ii) operates at a chilled, frozen, combina-
22 tion chilled and frozen, or variable temperature;

23 “(iii) displays or stores merchandise and
24 other perishable materials horizontally,
25 semivertically, or vertically;

1 “(iv) has transparent or solid doors, sliding
2 or hinged doors, a combination of hinged, slid-
3 ing, transparent, or solid doors, or no doors;

4 “(v) is designed for pull-down temperature
5 applications or holding temperature applica-
6 tions; and

7 “(vi) is connected to a self-contained con-
8 densing unit or to a remote condensing unit.

9 “(B) The term ‘holding temperature applica-
10 tion’ means a use of commercial refrigeration equip-
11 ment other than a pull-down temperature applica-
12 tion, except a blast chiller or freezer.

13 “(C) The term ‘integrated average temperature’
14 means the average temperature of all test package
15 measurements taken during the test.

16 “(D) The term ‘pull-down temperature applica-
17 tion’ means a commercial refrigerator with doors
18 that, when fully loaded with 12 ounce beverage cans
19 at 90 degrees F, can cool those beverages to an av-
20 erage stable temperature of 38 degrees F in 12
21 hours or less.

22 “(E) The term ‘remote condensing unit’ means
23 a factory-made assembly of refrigerating components
24 designed to compress and liquefy a specific refriger-
25 erant that is remotely located from the refrigerated

1 equipment and consists of 1 or more refrigerant
2 compressors, refrigerant condensers, condenser fans
3 and motors, and factory supplied accessories.

4 “(F) The term ‘self-contained condensing unit’
5 means a factory-made assembly of refrigerating com-
6 ponents designed to compress and liquefy a specific
7 refrigerant that is an integral part of the refrig-
8 erated equipment and consists of 1 or more refrig-
9 erant compressors, refrigerant condensers, condenser
10 fans and motors, and factory supplied accessories.”.

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

14 “(c) COMMERCIAL REFRIGERATORS, FREEZERS, AND
15 REFRIGERATOR-FREEZERS.—(1) In this subsection:

16 “(A) The term ‘AV’ means the adjusted volume
17 (ft³) (defined as 1.63 x frozen temperature compart-
18 ment volume (ft³) + chilled temperature compart-
19 ment volume (ft³)) with compartment volumes meas-
20 ured in accordance with the Association of Home
21 Appliance Manufacturers Standard HRF1–1979.

22 “(B) The term ‘V’ means the chilled or frozen
23 compartment volume (ft³) (as defined in the Asso-
24 ciation of Home Appliance Manufacturers Standard
25 HRF1–1979).

1 “(C) Other terms have the meanings estab-
 2 lished by the Secretary, based on industry-accepted
 3 definitions and practice.

4 “(2) Each commercial refrigerator, freezer, and re-
 5 frigerator-freezer with a self-contained condensing unit de-
 6 signed for holding temperature applications manufactured
 7 on or after January 1, 2010, shall meet the following
 8 standard levels in kilowatt hours per day:

“Refrigerators with solid doors	0.10 V + 2.04
Refrigerators with transparent doors	0.12 V + 3.34
Freezers with solid doors	0.40 V + 1.38
Freezers with transparent doors	0.75 V + 4.10
Refrigerators/freezers with solid doors the greater of.	0.27 AV – 0.71 or 0.70.

9 “(3) Each commercial refrigerator with a self-con-
 10 tained condensing unit designed for pull-down tempera-
 11 ture applications manufactured on or after January 1,
 12 2010, shall meet the following standard levels in kilowatt
 13 hours per day: Refrigerators with transparent doors 0.126
 14 V + 3.51.

15 “(4)(A) Not later than January 1, 2009, the Sec-
 16 retary of Energy shall prescribe, by rule, standard levels
 17 for ice-cream freezers, self-contained commercial refrig-
 18 erators, freezers, and refrigerator-freezers without doors,
 19 and remote condensing commercial refrigerators, freezers,
 20 and refrigerator-freezers, with the standard levels effective
 21 for equipment manufactured on or after January 1, 2012.

1 “(B) Not later than January 1, 2009, the Secretary
2 shall prescribe, by rule, standard levels for other types of
3 commercial refrigerators, freezers, and refrigerator-freez-
4 ers not covered by paragraphs (1), (2), and (3) and sub-
5 paragraph (A) with the standard levels effective for equip-
6 ment manufactured on or after January 1, 2012.

7 “(5)(A)(i) Not later than January 1, 2013, the Sec-
8 retary shall publish a final rule to determine if the stand-
9 ards established under paragraphs (1), (2), (3), and
10 (4)(A) should be amended.

11 “(ii) The rule shall provide that any amended stand-
12 ards shall apply to products manufactured on or after the
13 date that is 3 years after the final amended standard is
14 published unless the Secretary determines, by rule, that
15 3 years is inadequate, in which case the Secretary may
16 establish an application date for products manufactured
17 not later than 5 years after the final amended standard
18 is published.

19 “(B)(i) Not later than 3 years after the amended
20 final standard referred to in subparagraph (A) takes effect
21 or after the Secretary publishes a final rule determining
22 that the standard should not be amended, the Secretary
23 shall publish a final rule to determine if the standards es-
24 tablished under paragraphs (1), (2), (3), and (4)(A)
25 should be amended.

1 “(ii) The rule shall provide that any amended stand-
2 ards shall apply to products manufactured on or after the
3 date that is 3 years after the final amended standard is
4 published unless the Secretary determines, by rule, that
5 3 years is inadequate, in which case the Secretary may
6 establish an application date for products manufactured
7 not later than 5 years after the final amended standard
8 is published.”.

9 (c) TEST PROCEDURES.—Section 343 of the Energy
10 Policy and Conservation Act (42 U.S.C. 6314) is amend-
11 ed—

12 (1) in subsection (a), by adding at the end the
13 following:

14 “(6)(A)(i) In the case of commercial refrigerators,
15 freezers, and refrigerator-freezers, the test procedures
16 shall be the test procedures determined by the Secretary
17 to be generally accepted industry testing procedures or
18 rating procedures developed or recognized by the
19 ASHRAE or by the American National Standards Insti-
20 tute.

21 “(ii) In the case of self-contained refrigerators, freez-
22 ers, and refrigerator-freezers to which standards are appli-
23 cable under subsection 342(c)(1), the initial test proce-
24 dures shall be ASHRAE 117 that is in effect on January
25 1, 2005.

1 “(B) In the case of commercial refrigerators, freez-
2 ers, and refrigerators-freezers with doors covered by the
3 standards adopted in February 2002, by the California
4 Energy Commission, the rating temperatures shall be the
5 integrated average temperature of 38 degrees F (+/- 2
6 degrees F) for refrigerator compartments and 0 degrees
7 F (+/- 2 degrees F) for freezer compartments.

8 “(C) The Secretary shall prescribe a rule, that meets
9 the requirements of paragraphs (2) and (3), to establish
10 the appropriate rating temperatures for the other products
11 for which standards will be established under subsection
12 342(e)(2).

13 “(D) In establishing the appropriate test tempera-
14 tures under this subparagraph, the Secretary shall follow
15 the procedures and meet the requirements specified in sec-
16 tion 323(e).

17 “(E)(i) Not later than 180 days after the publication
18 of the new ASHRAE 117 test procedure, if the ASHRAE
19 117 test procedure for commercial refrigerators, freezers,
20 and refrigerator-freezers is amended, the Secretary shall,
21 by rule, amend the test procedure for the product as nec-
22 essary to be consistent with the amended ASHRAE 117
23 test procedure unless the Secretary makes a determina-
24 tion, by rule, and supported by clear and convincing evi-

1 dence, that to do so would not meet the requirements for
2 test procedures described in paragraphs (2) and (3).

3 “(ii) If the Secretary needs more than 180 days to
4 review and adopt the amended test procedure or rating
5 procedure, the Secretary shall publish a notice in the Fed-
6 eral Register stating the intent of the Secretary to take
7 up to an additional 1 year before the amended test proce-
8 dure or rating procedure would become effective.

9 “(F)(i) If another test procedure besides ASHRAE
10 117 is approved by the American National Standards In-
11 stitute, the Secretary shall, by rule—

12 “(I) review the relative strengths and weak-
13 nesses of the new test procedure relative to
14 ASHRAE 117; and

15 “(II) based on that review, adopt 1 of those test
16 procedures for subsequent use in the standards pro-
17 gram.

18 “(ii) If a new test procedure is adopted—

19 “(I) section 323(e) shall apply; and

20 “(II) subparagraph (B) shall apply to the
21 adopted test procedure.”; and

22 (2) in subsection (d)(1), by striking “and
23 unfired hot water storage tanks,” and inserting:
24 “unfired hot water storage tanks, and commercial
25 refrigerators, freezers, and refrigerator-freezers.”.

1 (d) LABELING.—Section 344(e) of the Energy Policy
2 and Conservation Act (42 U.S.C. 6315(e)), as amended
3 by section 203(d), is amended by striking “and unfired
4 hot water storage tanks” each place it appears and insert-
5 ing “unfired hot water storage tanks, and commercial re-
6 frigerators, freezers, and refrigerator-freezers”.

7 (e) ADMINISTRATION, PENALTIES, ENFORCEMENT,
8 AND PREEMPTION.—Section 345 of the Energy Policy and
9 Conservation Act (42 U.S.C. 6316), as amended by sec-
10 tion 203(e), is amended by adding at the end the fol-
11 lowing:

12 “(e)(1)(A) The provisions of subsections (a), (b), and
13 (d) of section 326, subsections (m) through (s) of section
14 325, and sections 328 through 336 shall apply with re-
15 spect to equipment specified in section 340(1)(G) to the
16 same extent and in the same manner as those provisions
17 apply under part B.

18 “(B) In applying those provisions to that equipment,
19 paragraphs (1), (2), (3), and (4) of subsection (a) shall
20 apply.

21 “(2)(A)(i) The provisions of section 327 shall apply
22 with respect to the equipment specified in section
23 340(1)(G) that have standards established under section
24 342(e)(2) to the same extent and in the same manner as
25 those provisions apply under part B on the date of enact-

1 ment of this subsection, except that any State or local
2 standard prescribed or enacted before the date of enact-
3 ment of this subsection shall not be preempted until the
4 standards established under section 342(c) take effect.

5 “(ii) In applying those provisions to that equipment,
6 paragraphs (1), (2), and (3) of subsection (a) shall apply.

7 “(B) Notwithstanding subparagraph (A), if the Cali-
8 fornia Energy Commission adopts, not later than March
9 31, 2005, a regulation concerning the energy efficiency or
10 energy use of the equipment specified in section 340(1)(G)
11 that have standards established under section 342(c)(2),
12 those standards shall be effective until, and shall no longer
13 be effective after, the standards established under section
14 342(c)(2) take effect on January 1, 2010.

15 “(3)(A) The provisions of section 327 shall apply
16 with respect to the equipment specified in 340(1)(G) that
17 have standards established under section 342(c)(3) to the
18 same extent and in the same manner as they apply under
19 part B on the date of publication of the final rule by the
20 Secretary, except that any State or local standard pre-
21 scribed or enacted before the date of publication of the
22 final rule by the Secretary shall not be preempted until
23 the standards take effect.

1 “(B) In applying those provisions for the purpose of
2 that equipment, paragraphs (1), (2), and (3) of subsection
3 (a) shall apply.

4 “(4) If the Secretary does not issue a final rule for
5 a specific type of equipment specified in section 340(1)(G)
6 within the time frame specified in section 342(c)(3), the
7 provisions of subsections (b) and (c) of section 327 shall
8 no longer apply to that specific type of equipment begin-
9 ning on the date that is 2 years after the scheduled date
10 for a final rule and until the Secretary publishes a final
11 rule covering the specific type of equipment, at which time
12 those provisions shall apply to the specific type of equip-
13 ment.

14 “(5)(A) In the case of any commercial refrigerator,
15 freezer, and refrigerator-freezer to which standards are
16 applicable under section 342(c)(2), the Secretary shall re-
17 quire manufacturers to certify, through an independent
18 testing or certification program nationally recognized in
19 the United States, that the commercial refrigerator, freez-
20 er, and refrigerator-freezer meets the applicable standard.

21 “(B) The Secretary shall, to the maximum extent
22 practicable, encourage the establishment of at least 2 such
23 independent testing and certification programs.

1 “(C) As part of certification, information on equip-
2 ment energy use and interior volume shall be made avail-
3 able to the Secretary.”.

4 **TITLE III—ENERGY EFFICIENT**
5 **FEDERAL PROGRAMS**

6 **SEC. 301. PROCUREMENT OF ENERGY EFFICIENT PROD-**
7 **UCTS.**

8 (a) REQUIREMENTS.—Part 3 of title V of the Na-
9 tional Energy Conservation Policy Act is amended—

10 (1) by redesignating section 551 (42 U.S.C.
11 8259) as section 552; and

12 (2) by inserting after section 550 (42 U.S.C.
13 8258b) the following:

14 **“SEC. 551. FEDERAL PROCUREMENT OF ENERGY EFFI-**
15 **CIENT PRODUCTS.**

16 “(a) DEFINITIONS.—In this section:

17 “(1) The term ‘Energy Star product’ means a
18 product that is rated for energy efficiency under an
19 Energy Star program.

20 “(2) The term ‘Energy Star program’ means
21 the Energy Star program of the Environmental Pro-
22 tection Agency.

23 “(3) The term ‘executive agency’ has the mean-
24 ing given the term in section 4 of the Office of Fed-
25 eral Procurement Policy Act (41 U.S.C. 403).

1 “(4) The term ‘FEMP designated product’
2 means a product that is designated under the Fed-
3 eral Energy Management Program of the Depart-
4 ment of Energy as being among the highest 25 per-
5 cent of equivalent products for energy efficiency.

6 “(b) PROCUREMENT OF ENERGY EFFICIENT PROD-
7 UCTS.—(1) Except as provided in paragraph (2), to meet
8 the requirements of an executive agency for an energy con-
9 suming product, the head of the executive agency shall
10 procure—

11 “(A) an Energy Star product; or

12 “(B) a FEMP designated product.

13 “(2) The head of an executive agency shall not be
14 required to comply with paragraph (1) if the head of the
15 executive agency specifies in writing that—

16 “(A) taking into account energy cost savings,
17 an Energy Star product or FEMP designated prod-
18 uct is not cost-effective over the life of the product;
19 or

20 “(B) no Energy Star product or FEMP des-
21 ignated product is reasonably available that meets
22 the functional requirements of the executive agency.

23 “(3) The head of an executive agency shall incor-
24 porate criteria for energy efficiency that are consistent

1 with the criteria used for rating Energy Star products and
2 FEMP designated products into—

3 “(A) the specifications for any procurements in-
4 volving energy consuming products and systems, in-
5 cluding—

6 “(i) guide specifications;

7 “(ii) project specifications; and

8 “(iii) construction, renovation, and services
9 contracts that include the provision of energy
10 consuming products and systems; and

11 “(B) the factors for the evaluation of offers re-
12 ceived for the procurement.

13 “(c) LISTING OF ENERGY EFFICIENT PRODUCTS IN
14 FEDERAL CATALOGS.—(1) Any inventory or listing of
15 products by the General Services Administration or the
16 Defense Logistics Agency shall clearly identify and promi-
17 nently display Energy Star products and FEMP des-
18 ignated products.

19 “(2)(A) Except as provided in subparagraph (B), the
20 General Services Administration or the Defense Logistics
21 Agency shall supply only Energy Star products or FEMP
22 designated products for all product categories covered by
23 the Energy Star program or the Federal Energy Manage-
24 ment Program.

1 “(B) Subparagraph (A) shall not apply if an agency
2 ordering a product specifies in writing that—

3 “(i) taking into account energy cost savings, no
4 Energy Star product or FEMP designated product
5 is cost-effective for the intended application over the
6 life of the product; or

7 “(ii) no Energy Star product or FEMP des-
8 ignated product is available to meet the functional
9 requirements of the ordering agency.

10 “(d) SPECIFIC PRODUCTS.—(1) In the case of an
11 electric motor of 1 to 500 horsepower, an executive agency
12 shall select only a premium efficient motor that meets the
13 standard established by the Secretary under paragraph
14 (2).

15 “(2) Not later than 120 days after the date of enact-
16 ment of this subsection and after considering the rec-
17 ommendations of associated electric motor manufacturers
18 and energy efficiency groups, the Secretary shall establish
19 a standard for premium efficient motors.

20 “(3)(A) Each Federal agency is encouraged to take
21 actions (such as appropriate cleaning and maintenance)
22 to maximize the efficiency of air conditioning and refrig-
23 eration equipment, including the use of a system treat-
24 ment or additive that—

1 “(i) would reduce the electricity consumed by
2 air conditioning and refrigeration equipment; and

3 “(ii) meets the criteria specified in subpara-
4 graph (B).

5 “(B) A system treatment or additive referred to in
6 subparagraph (A) shall be—

7 “(i) determined by the Secretary to be effective
8 in increasing the efficiency of air conditioning and
9 refrigeration equipment without having an adverse
10 impact on—

11 “(I) air conditioning and refrigeration per-
12 formance (including cooling capacity); or

13 “(II) the useful life of the equipment;

14 “(ii) determined by the Administrator of the
15 Environmental Protection Agency to be environ-
16 mentally safe; and

17 “(iii) shown, in tests conducted by the National
18 Institute of Standards and Technology, in accord-
19 ance with Department of Energy test procedures, to
20 increase the seasonal energy efficiency ratio (SEER)
21 or energy efficiency ratio (EER) without having any
22 adverse impact on the system, system components,
23 the refrigerant or lubricant, or other materials in the
24 system.

1 “(4) The results of the tests described in paragraph
2 (3)(B)(iii) shall be published in the Federal Register for
3 public review and comment.

4 “(5) For purposes of this subsection, a hardware de-
5 vice or primary refrigerant shall not be considered an ad-
6 ditive.

7 “(e) REGULATIONS.—Not later than 180 days after
8 the date of enactment of this section, the Secretary shall
9 issue guidelines to carry out this section.”.

10 (b) CONFORMING AMENDMENT.—The table of con-
11 tents of the National Energy Conservation Policy Act is
12 amended—

13 (1) by redesignating the item relating to section
14 551 as section 552; and

15 (2) by inserting after the item relating to sec-
16 tion 550 the following:

“551. Federal procurement of energy efficient products.”.

17 **SEC. 302. ENERGY SAVINGS PERFORMANCE CONTRACTS.**

18 (a) PERMANENT EXTENSION.—Effective September
19 30, 2005, section 801 of the National Energy Conserva-
20 tion Policy Act (42 U.S.C. 8287) is amended by striking
21 subsection (c).

22 (b) PAYMENT OF COSTS.—Section 802 of the Na-
23 tional Energy Conservation Policy Act (42 U.S.C. 8287a)
24 is amended by inserting “, water, or wastewater treat-
25 ment” after “payment of energy”.

1 (c) ENERGY SAVINGS.—Section 804 of the National
2 Energy Conservation Policy Act (42 U.S.C. 8287c) is
3 amended by striking paragraph (2) and inserting the fol-
4 lowing:

5 “(2) The term ‘energy savings’ means a reduc-
6 tion in the cost of energy, water, or wastewater
7 treatment, from a base cost established through a
8 methodology set forth in the contract, used in 1 or
9 more existing federally owned buildings or other fed-
10 erally owned facilities as a result of—

11 “(A) the lease or purchase of operating
12 equipment, improvements, altered operation and
13 maintenance, or technical services;

14 “(B) the increased efficient use of existing
15 energy sources by cogeneration or heat recov-
16 ery, excluding any cogeneration process for
17 other than a federally owned building or build-
18 ings or other federally owned facilities; or

19 “(C) the increased efficient use of existing
20 water sources in interior or exterior applica-
21 tions.”.

22 (d) ENERGY SAVINGS CONTRACT.—Section 804 of
23 the National Energy Conservation Policy Act (42 U.S.C.
24 8287c) is amended by striking paragraph (3) and insert-
25 ing the following:

1 “(3)(A) The terms ‘energy savings contract’
2 and ‘energy savings performance contract’ mean a
3 contract that provides for the performance of serv-
4 ices for the design, acquisition, installation, testing,
5 and, as appropriate, operation, maintenance, and re-
6 pair, of an identified energy or water conservation
7 measure or series of measures at 1 or more loca-
8 tions.

9 “(B) With respect to an agency facility that is
10 a public building (as defined in section 3301 of title
11 40, United States Code), a contract described in
12 subparagraph (A) shall be in compliance with the
13 prospectus requirements and procedures of section
14 3307 of title 40, United States Code.”.

15 (e) ENERGY OR WATER CONSERVATION MEASURE.—
16 Section 804(4) of the National Energy Conservation Pol-
17 icy Act (42 U.S.C. 8287c(4)) is amended to read as fol-
18 lows:

19 “(4) The term ‘energy or water conservation
20 measure’ means—

21 “(A) an energy conservation measure (as
22 defined in section 551); or

23 “(B) a water conservation measure at a
24 non-Federal hydroelectric facility that—

- 1 “(i) improves the efficiency of water
2 use;
3 “(ii) is life-cycle cost-effective; and
4 “(iii) involves—
5 “(I) water conservation, recy-
6 cling, or reuse;
7 “(II) more efficient treatment of
8 wastewater or stormwater;
9 “(III) improvements in operation
10 or maintenance efficiencies;
11 “(IV) retrofit activities; or
12 “(V) other related activities.”.

13 (f) REVIEW.—

14 (1) IN GENERAL.—Not later than 180 days
15 after the date of enactment of this Act, the Sec-
16 retary of Energy shall complete a review of the en-
17 ergy savings performance contract program carried
18 out under title VIII of the National Energy Con-
19 servation Policy Act (42 U.S.C. 8287 et seq.) to
20 identify—

21 (A) statutory, regulatory, and administra-
22 tive obstacles that prevent Federal agencies
23 from fully using the program; and

24 (B) any areas for increasing program flexi-
25 bility and effectiveness, including—

- 1 (i) audit and measurement verification
2 requirements;
- 3 (ii) accounting for energy use in de-
4 termining savings;
- 5 (iii) contracting requirements, includ-
6 ing the identification of additional qualified
7 contractors; and
- 8 (iv) energy efficiency services covered.

9 (2) REPORT.—The Secretary shall—

10 (A) submit to Congress a report that de-
11 scribes the findings of the Secretary under
12 paragraph (1); and

13 (B) to the extent that the changes are con-
14 sistent with statutory authority, implement the
15 identified administrative and regulatory changes
16 to increase program flexibility and effectiveness.

17 (g) EXTENSION OF AUTHORITY.—Any energy sav-
18 ings performance contract entered into under section 801
19 of the National Energy Conservation Policy Act (42
20 U.S.C. 8287) after October 1, 2004, and before the date
21 of enactment of this Act, shall be deemed to have been
22 entered into under that section.

23 **SEC. 303. FEDERAL BUILDING PERFORMANCE STANDARDS.**

24 Section 305(a) of the Energy Conservation and Pro-
25 duction Act (42 U.S.C. 6834(a)) is amended—

1 (1) in paragraph (2)(A), by striking “CABO
2 Model Energy Code, 1992” and inserting “the 2003
3 International Energy Conservation Code, as such
4 Code (including supplements) is in effect on the date
5 of the enactment of the Efficient Energy Through
6 Certified Technologies and Electricity Reliability
7 (EFFECTER) Act of 2005”; and

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

9 “(3)(A) Not later than 1 year after the date of enact-
10 ment of this paragraph, there shall be establish, by rule,
11 revised Federal building energy efficiency performance
12 standards that require that—

13 “(i) if life-cycle cost-effective for new Federal
14 buildings—

15 “(I) the buildings be designed to achieve
16 energy consumption levels that are at least 30
17 percent below the levels established in the
18 version of the ASHRAE Standard or the Inter-
19 national Energy Conservation Code, as appro-
20 priate, that is in effect as of the date of enact-
21 ment of this paragraph; and

22 “(II) sustainable design principles are ap-
23 plied to the siting, design, and construction of
24 all new and replacement buildings; and

1 “(ii) if water is used to achieve energy effi-
2 ciency, water conservation technologies shall be ap-
3 plied to the extent that the technologies are life-cycle
4 cost-effective.

5 “(B) Not later than 1 year after the date of approval
6 of each subsequent revision of the ASHRAE Standard or
7 the International Energy Conservation Code, as appro-
8 priate, the Secretary shall determine, based on the cost-
9 effectiveness of the requirements under the amendment,
10 whether the revised standards established under this para-
11 graph should be updated to reflect the amendment.

12 “(C) In the budget request of the Federal agency for
13 each fiscal year and each report submitted by the Federal
14 agency under section 548(a) of the National Energy Con-
15 servation Policy Act (42 U.S.C. 8258(a)), the head of each
16 Federal agency shall include—

17 “(i) a list of all new Federal buildings owned,
18 operated, or controlled by the Federal agency; and

19 “(ii) a statement specifying whether the Federal
20 buildings meet or exceed the revised standards es-
21 tablished under this paragraph.”.

22 **TITLE IV—PUBLIC HOUSING**

23 **SEC. 401. PUBLIC HOUSING CAPITAL FUND.**

24 Section 9 of the United States Housing Act of 1937
25 (42 U.S.C. 1437g) is amended—

1 (1) in subsection (d)(1)—

2 (A) in subparagraph (I), by striking “and”
3 at the end;

4 (B) in subparagraph (J), by striking the
5 period at the end and inserting a semicolon;
6 and

7 (C) by adding at the end the following new
8 subparagraphs:

9 “(K) improvement of energy and water-use
10 efficiency by installing fixtures and fittings that
11 conform to the American Society of Mechanical
12 Engineers/American National Standards Insti-
13 tute standards A112.19.2–1998 and
14 A112.18.1–2000, or any revision thereto, appli-
15 cable at the time of installation, and by increas-
16 ing energy efficiency and water conservation by
17 such other means as the Secretary determines
18 are appropriate; and

19 “(L) integrated utility management and
20 capital planning to maximize energy conserva-
21 tion and efficiency measures.”; and

22 (2) in subsection (e)(2)(C)—

23 (A) by striking “The” and inserting the
24 following:

25 “(i) IN GENERAL.—The”; and

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

2 “(ii) THIRD-PARTY CONTRACTS.—
3 Contracts described in clause (i) may in-
4 clude contracts for equipment conversions
5 to less costly utility sources, projects with
6 resident-paid utilities, and adjustments to
7 frozen base year consumption, including
8 systems repaired to meet applicable build-
9 ing and safety codes and adjustments for
10 occupancy rates increased by rehabilita-
11 tion.

12 “(iii) TERM OF CONTRACT.—The total
13 term of a contract described in clause (i)
14 shall not exceed 20 years to allow longer
15 payback periods for retrofits, including
16 windows, heating system replacements,
17 wall insulation, site-based generation, ad-
18 vanced energy savings technologies, includ-
19 ing renewable energy generation, and other
20 such retrofits.”.

21 **SEC. 402. GRANTS FOR ENERGY-CONSERVING IMPROVE-**
22 **MENTS FOR ASSISTED HOUSING.**

23 Section 251(b)(1) of the National Energy Conserva-
24 tion Policy Act (42 U.S.C. 8231(1)) is amended—

1 (1) by striking “financed with loans” and in-
2 serting “assisted”;

3 (2) by inserting after “1959,” the following:
4 “which are eligible multifamily housing projects (as
5 such term is defined in section 512 of the Multi-
6 family Assisted Housing Reform and Affordability
7 Act of 1997 (42 U.S.C. 1437f note)) and are subject
8 to mortgage restructuring and rental assistance suf-
9 ficiency plans under such Act,”; and

10 (3) by inserting after the period at the end of
11 the first sentence the following new sentence: “Such
12 improvements may also include the installation of
13 energy and water conserving fixtures and fittings
14 that conform to the American Society of Mechanical
15 Engineers/American National Standards Institute
16 standards A112.19.2–1998 and A112.18.1–2000, or
17 any revision thereto, applicable at the time of instal-
18 lation.”.

19 **SEC. 403. ENERGY-EFFICIENT APPLIANCES.**

20 In purchasing appliances, a public housing agency
21 shall purchase energy-efficient appliances that are Energy
22 Star products or FEMP-designated products, as such
23 terms are defined in section 553 of the National Energy
24 Conservation Policy Act (as amended by this subtitle), un-

1 less the purchase of energy-efficient appliances is not cost-
2 effective to the agency.

3 **SEC. 404. ENERGY EFFICIENCY STANDARDS.**

4 Section 109 of the Cranston-Gonzalez National Af-
5 fordable Housing Act (42 U.S.C. 12709) is amended—

6 (1) in subsection (a)—

7 (A) in paragraph (1)—

8 (i) by striking “1 year after the date
9 of the enactment of the Energy Policy Act
10 of 1992” and inserting “September 30,
11 2005”;

12 (ii) in subparagraph (A), by striking
13 “and” at the end;

14 (iii) in subparagraph (B), by striking
15 the period at the end and inserting “;
16 and”;

17 (iv) by adding at the end the fol-
18 lowing:

19 “(C) rehabilitation and new construction of
20 public and assisted housing funded by HOPE
21 VI revitalization grants under section 24 of the
22 United States Housing Act of 1937 (42 U.S.C.
23 1437v), where such standards are determined
24 to be cost effective by the Secretary of Housing
25 and Urban Development.”; and

1 (B) in paragraph (2), by striking “Council
2 of American” and all that follows through
3 “90.1–1989’)” and inserting “2003 Inter-
4 national Energy Conservation Code, as such
5 Code (including supplements) is in effect on the
6 date of the enactment of the Efficient Energy
7 Through Certified Technologies and Electricity
8 Reliability (EFFECTER) Act of 2005”;

9 (2) in subsection (b)—

10 (A) by striking “within 1 year after the
11 date of the enactment of the Energy Policy Act
12 of 1992” and inserting “by September 30,
13 2005”; and

14 (B) by striking “CABO” and all that fol-
15 lows through “1989” and inserting “2003
16 International Energy Conservation Code, as
17 such Code (including supplements) is in effect
18 on the date of the enactment of the Efficient
19 Energy Through Certified Technologies and
20 Electricity Reliability (EFFECTER) Act of
21 2005”; and

22 (3) in subsection (c)—

23 (A) in the heading, by striking “Model En-
24 ergy Code” and inserting “The International
25 Energy Conservation Code”; and

1 (B) by striking “CABO” and all that fol-
2 lows through “1989” and inserting “the 2003
3 International Energy Conservation Code, as
4 such Code (including supplements) is in effect
5 on the date of the enactment of the Efficient
6 Energy Through Certified Technologies and
7 Electricity Reliability (EFFECTER) Act of
8 2005”.

9 **TITLE V—RELIABILITY** 10 **STANDARDS**

11 **SEC. 501. ELECTRIC RELIABILITY STANDARDS.**

12 (a) IN GENERAL.—Part II of the Federal Power Act
13 (16 U.S.C 824 et seq.) is amended by adding at the end
14 the following:

15 **“SEC. 215. ELECTRIC RELIABILITY.**

16 “(a) DEFINITIONS.—In this section:

17 “(1)(A) The term ‘bulk-power system’ means—

18 “(i) facilities and control systems necessary
19 for operating an interconnected electric energy
20 transmission network (or any portion thereof);
21 and

22 “(ii) electric energy from generation facili-
23 ties needed to maintain transmission system re-
24 liability.

1 “(B) The term ‘bulk-power system’ does not in-
2 clude facilities used in the local distribution of elec-
3 tric energy.

4 “(2) The terms ‘Electric Reliability Organiza-
5 tion’ and ‘ERO’ mean the organization certified by
6 the Commission under subsection (c) the purpose of
7 which is to establish and enforce reliability stand-
8 ards for the bulk-power system, subject to Commis-
9 sion review.

10 “(3) The term ‘interconnection’ means a geo-
11 graphic area in which the operation of bulk-power
12 system components is synchronized such that the
13 failure of 1 or more of such components may ad-
14 versely affect the ability of the operators of other
15 components within the system to maintain reliable
16 operation of the facilities within their control.

17 “(4) The term ‘regional entity’ means an entity
18 having enforcement authority pursuant to subsection
19 (e)(4).

20 “(5)(A) The term ‘reliability standard’ means a
21 requirement, approved by the Commission under this
22 section, to provide for reliable operation of the bulk-
23 power system.

24 “(B) The term ‘reliability standard’ includes re-
25 quirements for the operation of existing bulk-power

1 system facilities and the design of planned additions
2 or modifications to those facilities to the extent nec-
3 essary to provide for reliable operation of the bulk-
4 power system.

5 “(C) The term ‘reliability standard’ does not in-
6 clude any requirement to enlarge a facility described
7 in subparagraph (B) or to construct new trans-
8 mission capacity or generation capacity.

9 “(6) The term ‘reliable operation’ means oper-
10 ating the elements of the bulk-power system within
11 equipment and electric system thermal, voltage, and
12 stability limits so that instability, uncontrolled sepa-
13 ration, or cascading failures of such system will not
14 occur as a result of a sudden disturbance or unan-
15 ticipated failure of system elements.

16 “(7) The term ‘transmission organization’
17 means a regional transmission organization, inde-
18 pendent system operator, independent transmission
19 provider, or other transmission organization finally
20 approved by the Commission for the operation of
21 transmission facilities.

22 “(b) JURISDICTION AND APPLICABILITY.—(1)(A)
23 The Commission shall have jurisdiction, within the United
24 States, over the ERO certified by the Commission under
25 subsection (c), any regional entities, and all users, owners

1 and operators of the bulk-power system, including the en-
2 tities described in section 201(f), for purposes of approv-
3 ing reliability standards established under this section and
4 enforcing compliance with this section.

5 “(B) All users, owners, and operators of the bulk-
6 power system shall comply with reliability standards that
7 take effect under this section.

8 “(2) Not later than 180 days after the date of enact-
9 ment of this section, the Commission shall issue a final
10 rule to implement this section.

11 “(c) CERTIFICATION.—(1) Following the issuance of
12 a Commission rule under subsection (b)(2), any person
13 may submit an application to the Commission for certifi-
14 cation as the Electric Reliability Organization.

15 “(2) The Commission may certify an ERO described
16 in paragraph (1) if the Commission determines that the
17 ERO—

18 “(A) has the ability to develop and enforce, sub-
19 ject to subsection (e)(2), reliability standards that
20 provide for an adequate level of reliability of the
21 bulk-power system; and

22 “(B) has established rules that—

23 “(i) ensure the independence of the ERO
24 from the users and owners and operators of the
25 bulk-power system, while ensuring fair stake-

1 holder representation in the selection of direc-
2 tors of the ERO and balanced decisionmaking
3 in any ERO committee or subordinate organiza-
4 tional structure;

5 “(ii) allocate equitably reasonable dues,
6 fees, and other charges among end users for all
7 activities under this section;

8 “(iii) provide fair and impartial procedures
9 for enforcement of reliability standards through
10 the imposition of penalties in accordance with
11 subsection (e) (including limitations on activi-
12 ties, functions, or operations, or other appro-
13 priate sanctions);

14 “(iv) provide for reasonable notice and op-
15 portunity for public comment, due process,
16 openness, and balance of interests in developing
17 reliability standards and otherwise exercising
18 the duties of the ERO; and

19 “(v) provide for taking, after certification,
20 appropriate steps to gain recognition in Canada
21 and Mexico.

22 “(d) RELIABILITY STANDARDS.—(1) The Electric
23 Reliability Organization shall file each reliability standard
24 or modification to a reliability standard that the Electric

1 Reliability Organization proposes to be made effective
2 under this section with the Commission.

3 “(2)(A) The Commission may approve, by rule or
4 order, a proposed reliability standard or modification to
5 a reliability standard if the Commission determines that
6 the standard is just, reasonable, not unduly discriminatory
7 or preferential, and in the public interest.

8 “(B) The Commission—

9 “(i) shall give due weight to the technical exper-
10 tise of the Electric Reliability Organization with re-
11 spect to the content of a proposed standard or modi-
12 fication to a reliability standard and to the technical
13 expertise of a regional entity organized on an inter-
14 connection-wide basis with respect to a reliability
15 standard to be applicable within that interconnec-
16 tion; but

17 “(ii) shall not defer with respect to the effect of
18 a standard on competition.

19 “(C) A proposed standard or modification shall take
20 effect upon approval by the Commission.

21 “(3) The Electric Reliability Organization shall
22 rebuttably presume that a proposal from a regional entity
23 organized on an interconnection-wide basis for a reliability
24 standard or modification to a reliability standard to be ap-
25 plicable on an interconnection-wide basis is just, reason-

1 able, and not unduly discriminatory or preferential, and
2 in the public interest.

3 “(4) The Commission shall remand to the Electric
4 Reliability Organization for further consideration a pro-
5 posed reliability standard or a modification to a reliability
6 standard that the Commission disapproves in whole or in
7 part.

8 “(5) The Commission, upon a motion of the Commis-
9 sion or upon complaint, may order the Electric Reliability
10 Organization to submit to the Commission a proposed reli-
11 ability standard or a modification to a reliability standard
12 that addresses a specific matter if the Commission con-
13 siders such a new or modified reliability standard appro-
14 priate to carry out this section.

15 “(6)(A) The final rule adopted under subsection
16 (b)(2) shall include fair processes for the identification
17 and timely resolution of any conflict between a reliability
18 standard and any function, rule, order, tariff, rate sched-
19 ule, or agreement accepted, approved, or ordered by the
20 Commission applicable to a transmission organization.

21 “(B) The transmission organization shall continue to
22 comply with such function, rule, order, tariff, rate sched-
23 ule, or agreement as is accepted, approved, or ordered by
24 the Commission until—

1 “(i) the Commission finds a conflict exists be-
2 tween a reliability standard and any such provision;

3 “(ii) the Commission orders a change to the
4 provision pursuant to section 206; and

5 “(iii) the ordered change becomes effective
6 under this part.

7 “(C) If the Commission determines that a reliability
8 standard needs to be changed as a result of such a con-
9 flict, the Commission shall order the ERO to develop and
10 file with the Commission a modified reliability standard
11 under paragraph (4) or (5).

12 “(e) ENFORCEMENT.—(1) Subject to paragraph (2),
13 the ERO may impose a penalty on a user or owner or
14 operator of the bulk-power system for a violation of a reli-
15 ability standard approved by the Commission under sub-
16 section (d) if the ERO, after notice and an opportunity
17 for a hearing—

18 “(A) finds that the user or owner or operator
19 has violated a reliability standard approved by the
20 Commission under subsection (d); and

21 “(B) files notice and the record of the pro-
22 ceeding with the Commission.

23 “(2)(A) A penalty imposed under paragraph (1) may
24 take effect not earlier than the 31st day after the date

1 on which the ERO files with the Commission notice of the
2 penalty and the record of proceedings.

3 “(B) The penalty shall be subject to review by the
4 Commission upon—

5 “(i) a motion by the Commission; or

6 “(ii) application by the user, owner, or operator
7 that is the subject of the penalty filed not later than
8 30 days after the date on which the notice is filed
9 with the Commission.

10 “(C) Application to the Commission for review, or the
11 initiation of review by the Commission upon a motion of
12 the Commission, shall not operate as a stay of the penalty
13 unless the Commission orders otherwise upon a motion of
14 the Commission or upon application by the user, owner,
15 or operator that is the subject of the penalty.

16 “(D) In any proceeding to review a penalty imposed
17 under paragraph (1), the Commission, after notice and op-
18 portunity for hearing (which hearing may consist solely
19 of the record before the ERO and opportunity for the
20 presentation of supporting reasons to affirm, modify, or
21 set aside the penalty), shall by order affirm, set aside, re-
22 instate, or modify the penalty, and, if appropriate, remand
23 to the ERO for further proceedings.

24 “(E) The Commission shall implement expedited pro-
25 cedures for hearings described in subparagraph (D).

1 “(3) Upon a motion of the Commission or upon com-
2 plaint, the Commission may order compliance with a reli-
3 ability standard and may impose a penalty against a user
4 or owner or operator of the bulk-power system if the Com-
5 mission finds, after notice and opportunity for a hearing,
6 that the user or owner or operator of the bulk-power sys-
7 tem has engaged or is about to engage in any act or prac-
8 tice that constitutes or will constitute a violation of a reli-
9 ability standard.

10 “(4)(A) The Commission shall issue regulations au-
11 thorizing the ERO to enter into an agreement to delegate
12 authority to a regional entity for the purpose of proposing
13 reliability standards to the ERO and enforcing reliability
14 standards under paragraph (1) if—

15 “(i) the regional entity is governed by an inde-
16 pendent board, a balanced stakeholder board, or a
17 combination of an independent and balanced stake-
18 holder board;

19 “(ii) the regional entity otherwise meets the re-
20 quirements of paragraphs (1) and (2) of subsection
21 (c); and

22 “(iii) the agreement promotes effective and effi-
23 cient administration of bulk-power system reliability.

24 “(B) The Commission may modify a delegation under
25 this paragraph.

1 “(C) The ERO and the Commission shall rebuttably
2 presume that a proposal for delegation to a regional entity
3 organized on an interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved.

6 “(D) The regulations issued under this paragraph
7 may provide that the Commission may assign the authority of the ERO to enforce reliability standards under paragraph (1) directly to a regional entity in accordance with
9 this paragraph.
10

11 “(5) The Commission may take such action as the
12 Commission determines to be appropriate against the
13 ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the
14 ERO or a regional entity.
15

16 “(6) Any penalty imposed under this section shall
17 bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of the
18 user, owner, or operator to remedy the violation in a timely manner.
19
20

21 “(f) CHANGES IN ELECTRIC RELIABILITY ORGANIZATION RULES.—(1) The Electric Reliability Organization
22 shall file with the Commission for approval any proposed
23 rule or proposed rule change, accompanied by an explanation.
24

1 nation of the basis and purpose of the rule and proposed
2 rule change.

3 “(2) The Commission, upon a motion of the Commis-
4 sion or upon complaint, may propose a change to the rules
5 of the ERO.

6 “(3) A proposed rule or proposed rule change shall
7 take effect upon a finding by the Commission, after notice
8 and opportunity for comment, that the change is just, rea-
9 sonable, not unduly discriminatory or preferential, is in
10 the public interest, and meets the requirements of sub-
11 section (c).

12 “(g) RELIABILITY REPORTS.—The ERO shall con-
13 duct periodic assessments of the reliability and adequacy
14 of the bulk-power system in North America.

15 “(h) COORDINATION WITH CANADA AND MEXICO.—
16 The President is urged to negotiate international agree-
17 ments with the governments of Canada and Mexico to pro-
18 vide for effective compliance with reliability standards and
19 the effectiveness of the ERO in the United States and
20 Canada or Mexico.

21 “(i) SAVINGS PROVISIONS.—(1) The ERO may de-
22 velop and enforce compliance with reliability standards for
23 only the bulk-power system.

24 “(2) Nothing in this section authorizes the ERO or
25 the Commission to order the construction of additional

1 generation or transmission capacity or to set and enforce
2 compliance with standards for adequacy or safety of elec-
3 tric facilities or services.

4 “(3) Nothing in this section preempts any authority
5 of any State to take action to ensure the safety, adequacy,
6 and reliability of electric service within that State, as long
7 as such action is not inconsistent with any reliability
8 standard.

9 “(4) Not later than 90 days after the date of applica-
10 tion of the Electric Reliability Organization or other af-
11 fected party, and after notice and opportunity for com-
12 ment, the Commission shall issue a final order deter-
13 mining whether a State action is inconsistent with a reli-
14 ability standard, taking into consideration any rec-
15 ommendation of the ERO.

16 “(5) The Commission, after consultation with the
17 ERO and the State taking action, may stay the effective-
18 ness of any State action, pending the issuance by the Com-
19 mission of a final order.

20 “(j) REGIONAL ADVISORY BODIES.—(1) The Com-
21 mission shall establish a regional advisory body on the pe-
22 tition of at least $\frac{2}{3}$ of the States within a region that have
23 more than $\frac{1}{2}$ of the electric load of the States served with-
24 in the region.

25 “(2) A regional advisory body—

1 “(A) shall be composed of 1 member from each
2 participating State in the region, appointed by the
3 Governor of the State; and

4 “(B) may include representatives of agencies,
5 States, and provinces outside the United States.

6 “(3) A regional advisory body may provide advice to
7 the Electric Reliability Organization, a regional entity, or
8 the Commission regarding—

9 “(A) the governance of an existing or proposed
10 regional entity within the same region;

11 “(B) whether a standard proposed to apply
12 within the region is just, reasonable, not unduly dis-
13 criminatory or preferential, and in the public inter-
14 est;

15 “(C) whether fees proposed to be assessed with-
16 in the region are just, reasonable, not unduly dis-
17 criminatory or preferential, and in the public inter-
18 est; and

19 “(D) any other responsibilities requested by the
20 Commission.

21 “(4) The Commission may give deference to the ad-
22 vice of a regional advisory body if that body is organized
23 on an interconnection-wide basis.

24 “(k) ALASKA AND HAWAII.—This section does not
25 apply to Alaska or Hawaii.”.

1 (b) STATUS OF ERO.—The Electric Reliability Orga-
2 nization certified by the Federal Energy Regulatory Com-
3 mission under section 215(c) of the Federal Power Act
4 (as added by subsection (a)) and any regional entity dele-
5 gated enforcement authority pursuant to section 215(e)(4)
6 of that Act (as so added) are not departments, agencies,
7 or instrumentalities of the United States Government.

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