

opment and commercialization of such appliances; and

“(4) identify the funding levels needed to develop and implement a Federal program to assist in the development and commercialization of highly efficient appliances.”

EVALUATION OF UTILITY EARLY REPLACEMENT PROGRAMS FOR APPLIANCES

Pub. L. 102-486, title I, §128, Oct. 24, 1992, 106 Stat. 2836, provided that: “Within 18 months after the date of the enactment of this Act [Oct. 24, 1992], the Secretary, in consultation with the Administrator of the Environmental Protection Agency, utilities, and appliance manufacturers, shall evaluate and report to the Congress on the energy savings and environmental benefits of programs which are directed to the early replacement of older, less efficient appliances presently in use by consumers with existing products which are more efficient than required by Federal law. For the purposes of this section, the term ‘appliance’ means those consumer products specified in section 322(a) [42 U.S.C. 6292(a)].”

**§ 6293. Test procedures**

**(a) General rule**

All test procedures and related determinations prescribed or made by the Secretary with respect to any covered product (or class thereof) which are in effect on March 17, 1987, shall remain in effect until the Secretary amends such test procedures and related determinations under subsection (b) of this section.

**(b) Amended and new procedures**

(1) TEST PROCEDURES.—

(A) AMENDMENT.—At least once every 7 years, the Secretary shall review test procedures for all covered products and—

(i) amend test procedures with respect to any covered product, if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of paragraph (3); or

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

(B) The Secretary may, in accordance with the requirements of this subsection, prescribe test procedures for any consumer product classified as a covered product under section 6292(b) of this title.

(C) The Secretary shall direct the National Institute of Standards and Technology to assist in developing new or amended test procedures.

(2) If the Secretary determines, on his own behalf or in response to a petition by any interested person, that a test procedure should be prescribed or amended, the Secretary shall promptly publish in the Federal Register proposed test procedures and afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such procedures. The comment period shall not be less than 60 days and may be extended for good cause shown to not more than 270 days. In prescribing or amending a test procedure, the Secretary shall take into account such information as the Secretary determines relevant to such procedure, including technological developments relating to energy use or energy effi-

ciency of the type (or class) of covered products involved.

(3) Any test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use, water use (in the case of showerheads, faucets, water closets and urinals), or estimated annual operating cost of a covered product during a representative average use cycle or period of use, as determined by the Secretary, and shall not be unduly burdensome to conduct.

(4) If the test procedure is a procedure for determining estimated annual operating costs, such procedure shall provide that such costs shall be calculated from measurements of energy use or, in the case of showerheads, faucets, water closets, or urinals, water use in a representative average use cycle or period of use, as determined by the Secretary, and from representative average unit costs of the energy needed to operate such product during such cycle, or in the case of showerheads, faucets, water closets, or urinals, representative average unit costs of water and wastewater treatment service resulting from the operation of such products during such cycle. The Secretary shall provide information to manufacturers with respect to representative average unit costs of energy, water, and wastewater treatment.

(5) With respect to fluorescent lamp ballasts manufactured on or after January 1, 1990, and to which standards are applicable under section 6295 of this title, the Secretary shall prescribe test procedures that are in accord with ANSI standard C82.2-1984 or other test procedures determined appropriate by the Secretary.

(6) With respect to fluorescent lamps and incandescent reflector lamps to which standards are applicable under subsection (i) of section 6295 of this title, the Secretary shall prescribe test procedures, to be carried out by accredited test laboratories, that take into consideration the applicable IES or ANSI standard.

(7)(A) Test procedures for showerheads and faucets to which standards are applicable under subsection (j) of section 6295 of this title shall be the test procedures specified in ASME A112.18.1M-1989 for such products.

(B) If the test procedure requirements of ASME A112.18.1M-1989 are revised at any time and approved by ANSI, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such revised ASME/ANSI requirements unless the Secretary determines, by rule, that to do so would not meet the requirements of paragraph (3).

(8)(A) Test procedures for water closets and urinals to which standards are applicable under subsection (k) of section 6295 of this title shall be the test procedures specified in ASME A112.19.6-1990 for such products.

(B) If the test procedure requirements of ASME A112.19.6-1990 are revised at any time and approved by ANSI, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such revised ASME/ANSI requirements unless the Secretary determines, by rule, that to do so would not meet the requirements of paragraph (3).

(9) Test procedures for illuminated exit signs shall be based on the test method used under

version 2.0 of the Energy Star program of the Environmental Protection Agency for illuminated exit signs.

(10)(A) Test procedures for distribution transformers and low voltage dry-type distribution transformers shall be based on the “Standard Test Method for Measuring the Energy Consumption of Distribution Transformers” prescribed by the National Electrical Manufacturers Association (NEMA TP 2-1998).

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

(C) For purposes of section 6317(a) of this title, the test procedures established under subparagraph (A) shall be considered to be the testing requirements prescribed by the Secretary under section 6317(a)(1) of this title for distribution transformers for which the Secretary makes a determination that energy conservation standards would—

(i) be technologically feasible and economically justified; and

(ii) result in significant energy savings.

(11) Test procedures for traffic signal modules and pedestrian modules shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for traffic signal modules, as in effect on August 8, 2005.

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

(B) Except as provided in subparagraph (C), medium base compact fluorescent lamps shall meet all test requirements for regulated parameters of section 6295(cc)<sup>1</sup> of this title.

(C) Notwithstanding subparagraph (B), if manufacturers document engineering predictions and analysis that support expected attainment of lumen maintenance at 40 percent rated life and lamp lifetime, medium base compact fluorescent lamps may be marketed before completion of the testing of lamp life and lumen maintenance at 40 percent of rated life.

(13) Test procedures for dehumidifiers shall be based on the test criteria used under the Energy Star Program Requirements for Dehumidifiers developed by the Environmental Protection Agency, as in effect on August 8, 2005, unless revised by the Secretary pursuant to this section.

(14) The test procedure for measuring flow rate for commercial prerinse spray valves shall be based on American Society for Testing and Materials Standard F2324, entitled “Standard Test Method for Pre-Rinse Spray Valves”.

(15) The test procedure for refrigerated bottled or canned beverage vending machines shall be based on American National Standards Institute/American Society of Heating, Refrigerating and Air-Conditioning Engineers Standard 32.1-2004, entitled “Methods of Testing for Rating Vending Machines for Bottled, Canned or Other Sealed Beverages”.

(16)(A)(i) Test procedures for ceiling fans shall be based on the “Energy Star Testing Facility

Guidance Manual: Building a Testing Facility and Performing the Solid State Test Method for ENERGY STAR Qualified Ceiling Fans, Version 1.1” published by the Environmental Protection Agency.

(ii) Test procedures for ceiling fan light kits shall be based on the test procedures referenced in the Energy Star specifications for Residential Light Fixtures and Compact Fluorescent Light Bulbs, as in effect on August 8, 2005.

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

(17) CLASS A EXTERNAL POWER SUPPLIES.—Test procedures for class A external power supplies shall be based on the “Test Method for Calculating the Energy Efficiency of Single-Voltage External AC-DC and AC-AC Power Supplies” published by the Environmental Protection Agency on August 11, 2004, except that the test voltage specified in section 4(d) of that test method shall be only 115 volts, 60 Hz.

(18) METAL HALIDE LAMP BALLASTS.—Test procedures for metal halide lamp ballasts shall be based on ANSI Standard C82.6-2005, entitled “Ballasts for High Intensity Discharge Lamps—Method of Measurement”.

**(c) Restriction on certain representations**

(1) No manufacturer, distributor, retailer, or private labeler may make any representation—

(A) in writing (including a representation on a label); or

(B) in any broadcast advertisement,

with respect to the energy use or efficiency or, in the case of showerheads, faucets, water closets, and urinals, water use of a covered product to which a test procedure is applicable under subsection (a) of this section or the cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

(2) Effective 180 days after an amended or new test procedure applicable to a covered product is prescribed or established under subsection (b) of this section, no manufacturer, distributor, retailer, or private labeler may make any representation—

(A) in writing (including a representation on a label); or

(B) in any broadcast advertisement,

with respect to energy use or efficiency or, in the case of showerheads, faucets, water closets, and urinals, water use of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such amended or new test procedures and such representation fairly discloses the results of such testing.

(3) On the petition of any manufacturer, distributor, retailer, or private labeler, filed not later than the 60th day before the expiration of the period involved, the 180-day period referred to in paragraph (2) may be extended by the Secretary with respect to the petitioner (but in no event for more than an additional 180 days) if the Secretary determines that the requirements of paragraph (2) would impose an undue hardship on such petitioner.

<sup>1</sup> So in original. Probably should be section “6295(bb)”.

**(d) Case in which test procedure is not required**

(1) The Secretary is not required to publish and prescribe test procedures for a covered product (or class thereof) if the Secretary determines, by rule, that test procedures cannot be developed which meet the requirements of subsection (b)(3) of this section and publishes such determination in the Federal Register, together with the reasons therefor.

(2) For purposes of section 6297 of this title, a determination under paragraph (1) with respect to any covered product or class shall have the same effect as would a standard prescribed for a covered product (or class).

**(e) Amendment of standard**

(1) In the case of any amended test procedure which is prescribed pursuant to this section, the Secretary shall determine, in the rulemaking carried out with respect to prescribing such procedure, to what extent, if any, the proposed test procedure would alter the measured energy efficiency, measured energy use, or measured water use of any covered product as determined under the existing test procedure.

(2) If the Secretary determines that the amended test procedure will alter the measured efficiency or measured use, the Secretary shall amend the applicable energy conservation standard during the rulemaking carried out with respect to such test procedure. In determining the amended energy conservation standard, the Secretary shall measure, pursuant to the amended test procedure, the energy efficiency, energy use, or water use of a representative sample of covered products that minimally comply with the existing standard. The average of such energy efficiency, energy use, or water use levels determined under the amended test procedure shall constitute the amended energy conservation standard for the applicable covered products.

(3) Models of covered products in use before the date on which the amended energy conservation standard becomes effective (or revisions of such models that come into use after such date and have the same energy efficiency, energy use, or water use characteristics) that comply with the energy conservation standard applicable to such covered products on the day before such date shall be deemed to comply with the amended energy conservation standard.

(4) The Secretary's authority to amend energy conservation standards under this subsection shall not affect the Secretary's obligation to issue final rules as described in section 6295 of this title.

**(f) Additional consumer and commercial products**

(1) Not later than 2 years after August 8, 2005, the Secretary shall prescribe testing requirements for refrigerated bottled or canned beverage vending machines.

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

(Pub. L. 94-163, title III, §323, Dec. 22, 1975, 89 Stat. 919; Pub. L. 95-619, title IV, §§421, 425(a), title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3257,

3265, 3288; Pub. L. 100-12, §4, Mar. 17, 1987, 101 Stat. 105; Pub. L. 100-357, §2(c), June 28, 1988, 102 Stat. 672; Pub. L. 100-418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433; Pub. L. 102-486, title I, §123(d), Oct. 24, 1992, 106 Stat. 2821; Pub. L. 109-58, title I, §135(b), Aug. 8, 2005, 119 Stat. 627; Pub. L. 110-140, title III, §§301(b), 302(a), 324(c), Dec. 19, 2007, 121 Stat. 1550, 1551, 1593.)

## AMENDMENTS

2007—Subsec. (b)(1). Pub. L. 110-140, §302(a), which directed amendment of subsec. (b)(1) by striking “(1)” and all that followed through the “end of the paragraph” and inserting a new par. (1) designation and heading and subpar. (A), was executed by substituting the new par. (1) designation and heading and subpar. (A) for “(1)(A) The Secretary may amend test procedures with respect to any covered product if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of paragraph (3).” to reflect the probable intent of Congress.

Subsec. (b)(17). Pub. L. 110-140, §301(b), added par. (17).

Subsec. (b)(18). Pub. L. 110-140, §324(c), added par. (18).

2005—Subsec. (b)(9) to (16). Pub. L. 109-58, §135(b)(1), added pars. (9) to (16).

Subsec. (f). Pub. L. 109-58, §135(b)(2), added subsec. (f).

1992—Subsec. (b)(3). Pub. L. 102-486, §123(d)(1)(A), inserted “water use (in the case of showerheads, faucets, water closets and urinals),” after “energy use.”

Subsec. (b)(4). Pub. L. 102-486, §123(d)(1)(B), in first sentence inserted “or, in the case of showerheads, faucets, water closets, or urinals, water use” after “energy use” and “, or in the case of showerheads, faucets, water closets, or urinals, representative average unit costs of water and wastewater treatment service resulting from the operation of such products during such cycle” after “such cycle”, and in second sentence inserted “, water, and wastewater treatment” before period at end.

Subsec. (b)(6) to (8). Pub. L. 102-486, §123(d)(1)(C), added pars. (6) to (8).

Subsec. (c)(1). Pub. L. 102-486, §123(d)(2), in closing provisions inserted “or, in the case of showerheads, faucets, water closets, and urinals, water use” after “efficiency”.

Subsec. (c)(2). Pub. L. 102-486, §123(d)(3), in introductory provisions substituted “prescribed or established” for “prescribed”.

Pub. L. 102-486, §123(d)(2), in closing provisions inserted “or, in the case of showerheads, faucets, water closets, and urinals, water use” after “efficiency”.

Subsec. (e)(1) to (3). Pub. L. 102-486, §123(d)(4), substituted “, measured energy use, or measured water use” for “or measured energy use” in par. (1) and “energy efficiency, energy use, or water use” for “energy efficiency or energy use” in two places in par. (2) and once in par. (3).

1988—Subsec. (b)(1)(C). Pub. L. 100-418 substituted “National Institute of Standards and Technology” for “National Bureau of Standards”.

Subsec. (b)(5). Pub. L. 100-357 added par. (5).

1987—Pub. L. 100-12 amended section generally, revising and restating as subsecs. (a) to (e) provisions formerly contained in subsecs. (a) to (c).

1978—Subsec. (a)(1), (2). Pub. L. 95-619, §691(b)(2), substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration, wherever appearing.

Subsec. (a)(3). Pub. L. 95-619, §§425(a), 691(b)(2), struck out “Except as provided in paragraph (6),” before “The Secretary”, struck out provision requiring proposed test procedures to be published not later than June 30, 1976, with certain excepted cases not required to be published before Sept. 30, 1976 and June 30, 1977, and substituted “Secretary” for “Administrator”.

Subsec. (a)(4). Pub. L. 95-619, §§421(a), 691(b)(2), redesignated provisions formerly classified to subpar. (A), as par. (4) and in par. (4), as so redesignated, struck out

“Except as provided in paragraph (6),” before “The Secretary shall”, substituted “Secretary” for “Administrator” in two places, inserted provision requiring the prescription of test procedures not later than Jan. 31, 1978, and struck out subpar. (B) requiring the prescription of test procedures not later than Sept. 30, 1976, with certain excepted cases required to be prescribed not later than Dec. 31, 1976 and Sept. 30 1977.

Subsec. (a)(5). Pub. L. 95-619, §691(b)(2), substituted “Secretary” for “Administrator” wherever appearing.

Subsec. (a)(6). Pub. L. 95-619, §421(b), redesignated existing provisions as subpar. (A) and, in subpar. (A) as so redesignated, substituted “Secretary” for “Administrator”, struck out provisions relating to the authority to delay publication of proposed test procedures, inserted requirement that a determination of a necessary prescription delay be submitted in a report to Congress, inserted specific ninety day time limitation for delayed prescriptions, and added subpar. (B).

Subsec. (a)(7). Pub. L. 95-619, §421(c), added par. (7).

Subsec. (b). Pub. L. 95-619, §691(b)(2), substituted “Secretary” for “Administrator” wherever appearing.

Subsec. (c). Pub. L. 95-619, §421(d), redesignated existing provisions as par. (1), substituted “180 days” for “90 days” and redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

### § 6294. Labeling

#### (a) In general

(1) The Commission shall prescribe labeling rules under this section applicable to all covered products of each of the types specified in paragraphs (1), (2), (4), (6), and (8) through (12) of section 6292(a) of this title, except to the extent that, with respect to any such type (or class thereof), the Commission determines under the second sentence of subsection (b)(5) of this section that labeling in accordance with this section is not technologically or economically feasible.

(2)(A) The Commission shall prescribe labeling rules under this section applicable to all covered products of each of the types specified in paragraphs (3), (5), and (7) of section 6292(a) of this title, except to the extent that with respect to any such type (or class thereof), the Commission determines under the second sentence of subsection (b)(5) of this section that labeling in accordance with this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions.

(B) The Commission shall prescribe labeling rules under this section applicable to the covered product specified in paragraph (13) of section 6292(a) of this title and to which standards are applicable under section 6295 of this title. Such rules shall provide that the labeling of any fluorescent lamp ballast manufactured on or after January 1, 1990, will indicate conspicuously, in a manner prescribed by the Commission under subsection (b) of this section by July 1, 1989, a capital letter “E” printed within a circle on the ballast and on the packaging of the ballast or of the luminaire into which the ballast has been incorporated.

#### (C) METAL HALIDE LAMP FIXTURES.—

(i) IN GENERAL.—The Commission shall issue labeling rules under this section applicable to

the covered product specified in section 6292(a)(19) of this title and to which standards are applicable under section 6295 of this title.

(ii) LABELING.—The rules shall provide that the labeling of any metal halide lamp fixture manufactured on or after the later of January 1, 2009, or the date that is 270 days after December 19, 2007, shall indicate conspicuously, in a manner prescribed by the Commission under subsection (b) by July 1, 2008, a capital letter “E” printed within a circle on the packaging of the fixture, and on the ballast contained in the fixture.

(D)(i) Not later than 18 months after October 24, 1992, the Commission shall prescribe labeling rules under this section applicable to general service fluorescent lamps, medium base compact fluorescent lamps, and general service incandescent lamps. Except as provided in clause (ii), such rules shall provide that the labeling of any general service fluorescent lamp, medium base compact fluorescent lamp, and general service incandescent lamp manufactured after the 12-month period beginning on the date of the publication of such rule shall indicate conspicuously on the packaging of the lamp, in a manner prescribed by the Commission under subsection (b) of this section, such information as the Commission deems necessary to enable consumers to select the most energy efficient lamps which meet their requirements. Labeling information for incandescent lamps shall be based on performance when operated at 120 volts input, regardless of the rated lamp voltage.

(ii) If the Secretary determines that compliance with the standards specified in section 6295(i) of this title for any lamp will result in the discontinuance of the manufacture of such lamp, the Commission may exempt such lamp from the labeling rules prescribed under clause (i).

#### (iii) RULEMAKING TO CONSIDER EFFECTIVENESS OF LAMP LABELING.—

(I) IN GENERAL.—Not later than 1 year after December 19, 2007, the Commission shall initiate a rulemaking to consider—

(aa) the effectiveness of current lamp labeling for power levels or watts, light output or lumens, and lamp lifetime; and

(bb) alternative labeling approaches that will help consumers to understand new high-efficiency lamp products and to base the purchase decisions of the consumers on the most appropriate source that meets the requirements of the consumers for lighting level, light quality, lamp lifetime, and total lifecycle cost.

(II) COMPLETION.—The Commission shall—

(aa) complete the rulemaking not later than the date that is 30 months after December 19, 2007; and

(bb) consider reopening the rulemaking not later than 180 days before the effective dates of the standards for general service incandescent lamps established under section 6295(i)(1)(A) of this title, if the Commission determines that further labeling changes are needed to help consumers understand lamp alternatives.

(E)(i) Not later than one year after October 24, 1992, the Commission shall prescribe labeling