

“(3) For purposes of sections 323, 324, and 327 of such Act [42 U.S.C. 6293, 6294, 6297], each product for which the Secretary has established test procedures or labeling rules pursuant to this subsection shall be considered a new covered product under section 322 of such Act (42 U.S.C. 6292) to the extent necessary to carry out this subsection.

“(4) For purposes of section 327(a) of such Act, the term ‘this part’ includes this subsection to the extent necessary to carry out this subsection.”

REPORT ON POTENTIAL OF COOPERATIVE ADVANCED APPLIANCE DEVELOPMENT

Pub. L. 102-486, title I, §127, Oct. 24, 1992, 106 Stat. 2835, provided that:

“(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act [Oct. 24, 1992], the Secretary shall, in consultation with the Administrator of the Environmental Protection Agency, utilities, and appliance manufacturers, prepare and submit to the Congress, a report on the potential for the development and commercialization of appliances which are substantially more efficient than required by Federal or State law.

“(b) IDENTIFICATION OF HIGH-EFFICIENCY APPLIANCES.—The report submitted under subsection (a) shall identify candidate high-efficiency appliances which meet the following criteria:

“(1) The potential exists for substantial improvement in the appliance’s energy efficiency, beyond the minimum established in Federal and State law.

“(2) There is the potential for significant energy savings at the national or regional level.

“(3) Such appliances are likely to be cost-effective for consumers.

“(4) Electric, water, or gas utilities are prepared to support and promote the commercialization of such appliances.

“(5) Manufacturers are unlikely to undertake development and commercialization of such appliances on their own, or development and production would be substantially accelerated by support to manufacturers.

“(c) RECOMMENDATIONS AND PROPOSALS.—The report submitted under subsection (a) shall also—

“(1) describe the general actions the Secretary or the Administrator of the Environmental Protection Agency could take to coordinate and assist utilities and appliance manufacturers in developing and commercializing highly efficient appliances;

“(2) describe specific proposals for Department of Energy or Environmental Protection Agency assistance to utilities and appliance manufacturers to promote the development and commercialization of highly efficient appliances;

“(3) identify methods by which Federal purchase of highly efficient appliances could assist in the development 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).

(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 efficiency 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)¹ 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 pre-rinse 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

¹ So in original. Probably should be section "6295(bb)".

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) 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), 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.

(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) 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), in-
 serted “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 result-
 ing from the operation of such products during such
 cycle” after “such cycle”, and in second sentence in-
 serted “, water, and wastewater treatment” before pe-
 riod 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, fau-
 cets, water closets, and urinals, water use” after “effi-
 ciency”.

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

Pub. L. 102-486, § 123(d)(2), in closing provisions in-
 serted “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), sub-
 stituted “, measured energy use, or measured water
 use” for “or measured energy use” in par. (1) and “en-
 ergy 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, revis-
 ing and restating as subsecs. (a) to (e) provisions for-
 merly contained in subsecs. (a) to (c).

1978—Subsec. (a)(1), (2). Pub. L. 95-619, § 691(b)(2), sub-
 stituted “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), redesi-
 gnated 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 Sec-
 retary shall”, substituted “Secretary” for “Adminis-
 trator” in two places, inserted provision requiring the
 prescription of test procedures not later than Jan. 31,
 1978, and struck out subpar. (B) requiring the prescrip-
 tion 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 exist-
 ing provisions as subpar. (A) and, in subpar. (A) as so
 redesignated, substituted “Secretary” for “Adminis-
 trator”, struck out provisions relating to the authority
 to delay publication of proposed test procedures, in-
 serted 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 exist-
 ing provisions as par. (1), substituted “180 days” for “90

days” and redesignated former pars. (1) and (2) as sub-
 pars. (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 sec-
 tion 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 para-
 graphs (1), (2), (4), (6), and (8) through (12) of sec-
 tion 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) that label-
 ing in accordance with this section is not tech-
 nologically 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 para-
 graphs (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 sub-
 section (b)(5) that labeling in accordance with
 this section is not technologically or economi-
 cally feasible or is not likely to assist consum-
 ers in making purchasing decisions.

(B) The Commission shall prescribe labeling
 rules under this section applicable to the cov-
 ered product specified in paragraph (13) of sec-
 tion 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 conspicu-
 ously, in a manner prescribed by the Commis-
 sion under subsection (b) by July 1, 1989, a cap-
 ital 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 De-
 cember 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 pack-
 aging of the fixture, and on the ballast con-
 tained 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 incandes-
 cent 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