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109th CONGRESS

1st Session

S. 680

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

IN THE SENATE OF THE UNITED STATES

March 17, 2005

Ms. Snowe (for herself, Mrs. Feinstein, Mr. McCain, and Mr. Durbin)
introduced the following bill; which was read twice and referred to the
Committee on Finance

A BILL

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

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the ``Efficient Energy
Through Certified Technologies and Electricity Reliability (EFFECTER)
Act of 2005''.

(b) Table of Contents.--The table of contents of 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.

TITLE I--TAX INCENTIVES

SEC. 101. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) In General.--Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 179B the following new section:

``SEC. 179C. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

``(a) In General.--There shall be allowed as a deduction an amount equal to the cost of energy efficient commercial building property placed in service during the taxable year.

``(b) Maximum Amount of Deduction.--The deduction under subsection (a) with respect to any building for the taxable year and all prior taxable years shall not exceed an amount equal to the product of--

``(1) \$2.25, and

``(2) the square footage of the building.

``(c) Definitions.--For purposes of this section--

``(1) Energy efficient commercial building property.--The term 'energy efficient commercial building property' means property--

``(A) which is installed on or in any building located in the United States,

``(B) which is installed as part of--

``(i) the interior lighting systems,

``(ii) the heating, cooling, ventilation, and hot water systems, or

``(iii) the building envelope, and

``(C) which is certified in accordance with subsection (d) (6) as being installed as part of a plan designed to reduce the total annual energy and power costs with respect to the interior lighting systems, heating, cooling, ventilation, and hot water systems of the building by 50 percent or more in comparison to a reference building which meets the minimum requirements of Standard 90.1-2001 using methods of calculation under subsection (d) (2).

A building described in subparagraph (A) may include any residential rental property, including any low-rise multifamily structure or single family housing property which is not within the scope of Standard 90.1-2001, but shall not include any qualified new energy efficient home (within the meaning of section 45J(d) (3)) for which a credit under section 45J has been allowed.

``(2) Standard 90.1-2001.--The term 'Standard 90.1-2001' means Standard 90.1-2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America (as in effect on April 2, 2003).

``(d) Special Rules.--

``(1) Partial allowance.--

``(A) In general.--Except as provided in subsection (f), if--

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

``(ii) there is a certification in accordance with paragraph (6) that any system referred to in subsection (c) (1) (B) satisfies

the energy-savings targets established by the Secretary under subparagraph (B) with respect to such system,

then the requirement of subsection (c)(1)(C) shall be treated as met with respect to such system, and the deduction under subsection (a) shall be allowed with respect to energy efficient commercial building property installed as part of such system and as part of a plan to meet such targets, except that subsection (b) shall be applied to such property by substituting '\$.75' for '\$2.25'.

((B) Regulations.--The Secretary, after consultation with the Secretary of Energy, shall establish a target for each system described in subsection (c)(1)(B) which, if such targets were met for all such systems, the building would meet the requirements of subsection (c)(1)(C).

((2) Methods of calculation.--The Secretary, after consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, based on the provisions of the 2005 California Nonresidential Alternative Calculation Method Approval Manual or, in the case of residential property, the 2005 California Residential Alternative Calculation Method Approval Manual. These regulations shall meet the following requirements:

((A) In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage. If a State has developed annual energy usage and cost calculation procedures based on time of usage costs for use in the performance standards of the State's building energy code before the effective date of this section, the State may use those annual energy usage and cost calculation procedures in lieu of those adopted by the Secretary.

((B) The calculation methods under this paragraph need not comply fully with section 11 of Standard 90.1-2001.

((C) The calculation methods shall be fuel neutral, such that the same energy efficiency features shall qualify a building for the deduction under this section regardless of whether the heating source is a gas or oil furnace or an electric heat pump. The reference building for a proposed design which employs electric resistance heating shall be modeled as using a heat pump.

((D) The calculation methods shall provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either Standard 90.1-2001 or in the 2005 California Nonresidential Alternative Calculation Method Approval Manual, including the following:

- ((i) Natural ventilation.
- ((ii) Evaporative cooling.
- ((iii) Automatic lighting controls such as occupancy sensors, photocells, and timeclocks.
- ((iv) Daylighting.
- ((v) Designs utilizing semi-conditioned spaces which maintain adequate comfort conditions without air conditioning or without heating.
- ((vi) Improved fan system efficiency, including reductions in static pressure.

``(vii) Advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors.

``(viii) The calculation methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance which exceeds typical performance.

``(ix) On-site generation of electricity, including combined heat and power systems, fuel cells, and renewable energy generation such as solar energy.

``(x) Wiring with lower energy losses than wiring satisfying Standard 90.1-2001 requirements for building power distribution systems.

``(3) Computer software.--

``(A) In general.--Any calculation under paragraph (2) shall be prepared by qualified computer software.

``(B) Qualified computer software.--For purposes of this paragraph, the term 'qualified computer software' means software--

``(i) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary,

``(ii) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this section, and

``(iii) which provides a notice form which documents the energy efficiency features of the building and its projected annual energy costs.

``(4) Allocation of deduction for public property.--In the case of energy efficient commercial building property installed on or in public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the taxpayer for purposes of this section.

``(5) Notice to owner.--Each certification required under this section shall include an explanation to the building owner regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (3) (B) (iii).

``(6) Certification.--

``(A) In general.--The Secretary shall prescribe the manner and method for the making of certifications under this section.

``(B) Procedures.--The Secretary shall include as part of the certification process procedures for inspection and testing by qualified individuals described in subparagraph (C) to ensure compliance of buildings with energy-savings plans and targets. Such procedures shall be comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

``(C) Qualified individuals.--Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes.

((e) Basis Reduction.--For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient commercial building property, the basis of such property shall be reduced by the amount of the deduction so allowed.

((f) Interim Rules for Lighting Systems.--Until such time as the Secretary issues final regulations under subsection (d)(1)(B) with respect to property which is part of a lighting system--

((1) In general.--The lighting system target under subsection (d)(1)(A)(ii) shall be a reduction in lighting power density of 25 percent (50 percent in the case of a warehouse) of the minimum requirements in Table 9.3.1.1 or Table 9.3.1.2 (not including additional interior lighting power allowances) of Standard 90.1-2001.

((2) Reduction in deduction if reduction less than 40 percent.--

((A) In general.--If, with respect to the lighting system of any building other than a warehouse, the reduction in lighting power density of the lighting system is not at least 40 percent, only the applicable percentage of the amount of deduction otherwise allowable under this section with respect to such property shall be allowed.

((B) Applicable percentage.--For purposes of subparagraph (A), the applicable percentage is the number of percentage points (not greater than 100) equal to the sum of--

((i) 50, and

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

((C) Exceptions.--This subsection shall not apply to any system--

((i) the controls and circuiting of which do not comply fully with the mandatory and prescriptive requirements of Standard 90.1-2001 and which do not include provision for bilevel switching in all occupancies except hotel and motel guest rooms, store rooms, restrooms, and public lobbies, or

((ii) which does not meet the minimum requirements for calculated lighting levels as set forth in the Illuminating Engineering Society of North America Lighting Handbook, Performance and Application, Ninth Edition, 2000.

((g) Coordination With Other Tax Benefits.--

((1) No double benefit.--No deduction shall be allowed under subsection (a) with respect to any building for which a credit under section 45J has been allowed.

((2) Special rule with respect to buildings with energy efficient property.--In any case in which a deduction under section 200 or a credit under section 25C has been allowed with respect to property in connection with a building, the annual energy and power costs of the reference building referred to in subsection (c)(1)(C) shall be determined assuming such reference building contains the property for which such deduction or credit has been allowed.

((h) Regulations.--The Secretary shall promulgate such regulations as necessary--

((1) to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section, and

((2) to provide for a recapture of the deduction allowed under this section if the plan described in subsection

(c) (1) (C) or (d) (1) (A) is not fully implemented.

((i) Termination.--This section shall not apply with respect to property placed in service after December 31, 2010.'')

(b) Conforming Amendments.--

(1) Section 1016(a) of the Internal Revenue Code of 1986 is amended by striking ``and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting `` , and'', and by adding at the end the following new paragraph:

((32) to the extent provided in section 179C(e).''.

(2) Section 1245(a) of such Code is amended by inserting ``179C,'' after ``179B,'' both places it appears in paragraphs (2) (C) and (3) (C).

(3) Section 1250(b) (3) of such Code is amended by inserting before the period at the end of the first sentence ``or by section 179C''.

(4) Section 263(a) (1) of such Code is amended by striking ``or'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting `` , or'', and by inserting after subparagraph (I) the following new subparagraph:

((J) expenditures for which a deduction is allowed under section 179C.'')

(5) Section 312(k) (3) (B) of such Code is amended by striking ``section 179, 179A, or 179B'' each place it appears in the heading and text and inserting ``section 179, 179A, 179B, or 179C''.

(c) Clerical Amendment.--The table of sections for part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 179B the following new item:

((Sec. 179C. Energy efficient commercial buildings deduction.'')

(d) Effective Date.--The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act in taxable years ending after such date.

SEC. 102. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOMES.

(a) In General.--Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

((SEC. 45J. NEW ENERGY EFFICIENT HOME CREDIT.

((a) In General.--For purposes of section 38, in the case of an eligible contractor with respect to a qualified new energy efficient home, the credit determined under this section for the taxable year with respect to such home is an amount equal to the aggregate adjusted bases of all energy efficient property installed in such home during construction of such home.

((b) Limitations.--

((1) Maximum credit.--

((A) In general.--The credit allowed by this section with respect to a dwelling unit shall not exceed--

((i) in the case of a dwelling unit described in clause (i) or (iii) of subsection (c) (3) (C), \$1,000, and

((ii) in the case of a dwelling unit described in clause (ii) or (iv) of subsection (c) (3) (C), \$2,000.

((B) Prior credit amounts on same dwelling unit taken into account.--If a credit was allowed under subsection (a) with respect to a dwelling unit in 1 or more prior taxable years, the amount of the credit

otherwise allowable for the taxable year with respect to such dwelling unit shall be reduced by the sum of the credits allowed under subsection (a) with respect to the dwelling unit for all prior taxable years.

((2) Coordination with certain credits.--For purposes of this section--

((A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to qualified rehabilitation expenditures (as defined in section 47(c)(2)) or to the energy percentage of energy property (as determined under section 48(a)), and

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

((c) Definitions.--For purposes of this section--

((1) Eligible contractor.--The term 'eligible contractor' means--

((A) the person who constructed the qualified new energy efficient home, or

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

If more than 1 person is described in subparagraph (A) or (B) with respect to any qualified new energy efficient home, such term means the person designated as such by the owner of such home.

((2) Energy efficient property.--The term 'energy efficient property' means any energy efficient building envelope component, and any energy efficient heating or cooling equipment or system, which can, individually or in combination with other components, result in a dwelling unit meeting the requirements of this section.

((3) Qualified new energy efficient home.--The term 'qualified new energy efficient home' means a dwelling unit--

((A) located in the United States,

((B) the construction of which is substantially completed after the date of the enactment of this section, and

((C) which is--

((i) certified to have a level of annual heating and cooling energy consumption which is at least 30 percent below the annual level of heating and cooling energy consumption of a comparable dwelling unit constructed in accordance with the standards of chapter 4 of the 2003 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section, and for which the heating and cooling equipment efficiencies correspond to the minimum allowed under the regulations established by the Department of Energy pursuant to the National Appliance Energy Conservation Act of 1987 and in effect at the time of construction, and to have building envelope component improvements account for at least 1/3 of such 30 percent,

((ii) certified to have a level of annual heating and cooling energy consumption which is at least 50 percent below such annual level and to have building envelope component improvements account for at least 1/5 of such 50 percent,

((iii) a manufactured home which meets the requirements of clause (i) and which conforms

to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations), or

``(iv) a manufactured home which meets the requirements of clause (ii) and which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations).

``(4) Construction.--The term `construction' includes substantial reconstruction and rehabilitation.

``(5) Acquire.--The term `acquire' includes purchase and, in the case of reconstruction and rehabilitation, such term includes a binding written contract for such reconstruction or rehabilitation.

``(6) Building envelope component.--The term `building envelope component' means--

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

``(B) exterior windows (including skylights),

``(C) exterior doors, and

``(D) any metal roof installed on a dwelling unit, but only if such roof has appropriate pigmented coatings which--

``(i) are specifically and primarily designed to reduce the heat gain of such dwelling unit, and

``(ii) meet the Energy Star program requirements.

``(d) Certification.--

``(1) Method of certification.--A certification described in subsection (c) (3) (C) shall be determined in accordance with guidance prescribed by the Secretary, after consultation with the Secretary of Energy. Such guidance shall specify procedures and methods for calculating energy and cost savings.

``(2) Form.--A certification described in subsection (c) (3) (C) shall be made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance.

``(e) Basis Adjustment.--For purposes of this subtitle, if a credit is determined under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so determined.

``(f) Special Rule With Respect to Buildings With Energy Efficient Property.--In any case in which a deduction under section 200 or a credit under section 25C has been allowed with respect to property in connection with a dwelling unit, the level of annual heating and cooling energy consumption of the comparable dwelling unit referred to in clauses (i) and (ii) of subsection (c) (3) (C) shall be determined assuming such comparable dwelling unit contains the property for which such deduction or credit has been allowed.

``(g) Application of Section.--

``(1) 50 percent homes.--In the case of any dwelling unit described in clause (ii) or (iv) of subsection (c) (3) (C), subsection (a) shall apply to qualified new energy efficient homes acquired during the period beginning on the date of the enactment of this section, and ending on December 31, 2009.

``(2) 30 percent homes.--In the case of any dwelling unit described in clause (i) or (iii) of subsection (c) (3) (C), subsection (a) shall apply to qualified new energy efficient homes acquired during the period beginning on the date of the enactment of this section, and ending on December 31, 2007.''.

(b) Credit Made Part of General Business Credit.--Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking ``plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting `` plus'', and by adding at the end the following new paragraph:

``(20) the new energy efficient home credit determined under section 45J(a).''.

(c) Basis Adjustment.--Subsection (a) of section 1016 of the Internal Revenue Code of 1986, as amended by section 101, is amended by striking ``and'' at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting `` , and'', and by adding at the end the following new paragraph:

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

(d) Deduction for Certain Unused Business Credits.--Section 196(c) of the Internal Revenue Code of 1986 (defining qualified business credits) is amended by striking ``and'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting `` , and'', and by adding after paragraph (12) the following new paragraph:

``(13) the new energy efficient home credit determined under section 45J(a).``.

(e) Clerical Amendment.--The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

``Sec. 45J. New energy efficient home credit.``.

(f) Effective Date.--The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

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

(a) In General.--Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

``SEC. 200. ENERGY PROPERTY DEDUCTION.

``(a) In General.--There shall be allowed as a deduction for the taxable year an amount equal to the sum of--

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

``(2) the energy efficient residential rental building property deduction determined under subsection (e).

``(b) Amount for Energy Property.--

``(1) In general.--The amount determined under this subsection for the taxable year for each item of energy property shall equal the amount specified 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 savings.
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 \$450.
property (other than an advanced
main air circulating fan or a
natural gas, propane, or oil
water heater).

((2) Elected solar hot water property.--In the case of
elected solar hot water property, the taxpayer may elect to
substitute '\$21 per annual Therm of natural gas savings' for
'\$1.00 per each kwh/year of savings' in the table contained in
paragraph (1).

((c) Energy Property Defined.--

((1) In general.--For purposes of this part, the term
'energy property' means any property--

((A) which is--

((i) solar energy property,

((ii) Tier 2 energy-efficient building
property,

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

((iv) an advanced main air circulating
fan,

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

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

((C) with respect to which depreciation (or
amortization in lieu of depreciation) is allowable, and

((D) which meets the performance and quality
standards, and the certification requirements (if any),
which--

((i) have been prescribed by the Secretary
by regulations (after consultation with the
Secretary of Energy or the Administrator of the
Environmental Protection Agency, as
appropriate),

((ii) in the case of the energy efficiency
ratio (EER) for central air conditioners and
electric heat pumps--

((I) require measurements to be
based on published data which is tested
by manufacturers at 95 degrees
Fahrenheit, and

((II) may be based on the
certified data of the Air Conditioning
and Refrigeration Institute that are
prepared in partnership with the
Consortium for Energy Efficiency,

((iii) in the case of geothermal heat
pumps--

((I) shall be based on testing
under the conditions of ARI/ISO
Standard 13256-1 for Water Source Heat
Pumps or ARI 870 for Direct Expansion
GeoExchange Heat Pumps (DX), as
appropriate, and

((II) shall include evidence that
water heating services have been
provided through a desuperheater or
integrated water heating system
connected to the storage water heater
tank, and

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

((2) Solar energy property.--In the case of--

((A) elected solar hot water property, the regulations under paragraph (1)(D) shall be based on the OG-300 Standard for the Annual Performance of OG-300 Certified Systems of the Solar Rating and Certification Corporation, and

((B) photovoltaics, such regulations shall be based on the ASTM Standard E 1036 and E 1036M-96 Standard Test Method for Electric Performance of Nonconcentrator Terrestrial Photovoltaic Modules and Arrays Using Reference Cells,

to the extent the Secretary determines such standards carry out the purposes of this section.

((3) Exception.--Such term shall not include any property which is public utility property (as defined in section 46(f)(5) as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

((d) Definitions Relating to Types of Energy Property.--For purposes of this section--

((1) Solar energy property.--

((A) In general.--The term 'solar energy property' means equipment which uses solar energy--

((i) to generate electricity, or

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

((B) Elected solar hot water property.--

((i) In general.--The term 'elected solar hot water property' means property which is solar energy property by reason of subparagraph (A)(ii) and for which an election under this subparagraph is in effect.

((ii) Election.--For purposes of clause (i), a taxpayer may elect to treat property described in clause (i) as elected solar hot water property.

((C) Photovoltaic property.--The term 'photovoltaic property' means solar energy property which uses a solar photovoltaic process to generate electricity.

((D) Swimming pools, etc., used as storage medium.--The term 'solar energy property' shall not include a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage.

((E) Solar panels.--No solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as solar energy property solely because it constitutes a structural component of the structure on which it is installed.

((2) Tier 2 energy-efficient building property.--The term 'Tier 2 energy-efficient building property' means--

((A) an electric heat pump water heater which yields an energy factor of at least 2.0 in the standard Department of Energy test procedure,

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

((C) a geothermal heat pump which--

((i) in the case of a closed loop product, has an energy efficiency ratio (EER) of at least 14.1 and a heating coefficient of performance (COP) of at least 3.3,

((ii) in the case of an open loop product, has an energy efficiency ratio (EER) of at least 16.2 and a heating coefficient of

performance (COP) of at least 3.6, and

``(iii) in the case of a direct expansion

(DX) product, has an energy efficiency ratio (EER) of at least 15 and a heating coefficient of performance (COP) of at least 3.5,

``(D) a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at least 15 and an energy efficiency ratio (EER) of at least 13, and

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

``(3) Tier 1 energy-efficient building property.--The term 'Tier 1 energy-efficient building property' means--

``(A) an electric heat pump which has a heating system performance factor (HSPF) of at least 8.5, a cooling seasonal energy efficiency ratio (SEER) of at least 14, and an energy efficiency ratio (EER) of at least 12,

``(B) a central air conditioner which has a cooling seasonal energy efficiency ratio (SEER) of at least 14 and an energy efficiency ratio (EER) of at least 12,

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

``(D) an oil, natural gas, or propane furnace or hot water boiler which achieves at least 95 percent annual fuel utilization efficiency (AFUE).

``(4) Advanced main air circulating fan.--The term 'advanced main air circulating fan' means a fan used in a natural gas, propane, or oil furnace originally placed in service by the taxpayer during the taxable year, including a fan which uses a brushless permanent magnet motor or another type of motor which achieves similar or higher efficiency at full and half speed, as determined by the Secretary.

``(e) Energy Efficient Residential Rental Building Property Deduction.--

``(1) Deduction allowed.--For purposes of subsection (a)--

``(A) In general.--The energy efficient residential rental building property deduction determined under this subsection is an amount equal to energy efficient residential rental building property expenditures made by a taxpayer for the taxable year.

``(B) Maximum amount of deduction.--The amount of energy efficient residential rental building property expenditures taken into account under subparagraph (A) with respect to each dwelling unit shall not exceed--

``(i) \$6,000 in the case of a percentage reduction of 50 percent as determined under paragraph (2) (B), and

``(ii) \$12,000 times the percentage reduction in the case of a percentage reduction of less than 50 percent as determined under paragraph (2) (B).

``(C) Year deduction allowed.--The deduction under subparagraph (A) shall be allowed in the taxable year in which the construction, reconstruction, erection, or rehabilitation of the property is completed.

``(2) Energy efficient residential rental building property expenditures.--For purposes of this subsection--

``(A) In general.--The term 'energy efficient residential rental building property expenditures' means an amount paid or incurred in connection with construction, reconstruction, erection, or rehabilitation of energy efficient residential rental building property--

``(i) for which depreciation is allowable under section 167,

``(ii) which is located in the United States, and

``(iii) the construction, reconstruction, erection, or rehabilitation of which is completed by the taxpayer.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

``(B) Energy efficient residential rental building property.--

``(i) In general.--The term `energy efficient residential rental building property' means any property which reduces total annual energy and power costs with respect to heating and cooling of the building by a percentage certified according to clause (ii).

``(ii) Procedures.--

``(I) In general.--For purposes of clause (i), energy usage and costs shall be demonstrated by performance-based compliance.

``(II) Performance-based compliance.--Performance-based compliance shall be demonstrated by calculating the percent energy cost savings for heating and cooling, as applicable, with respect to a dwelling unit when compared to the original condition of the dwelling unit.

``(III) Computer software.--Computer software shall be used in support of performance-based compliance under subclause (II) and such software shall meet all of the procedures and methods for calculating energy savings reductions which are promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2005 California Residential Alternative Calculation Method Approval Manual.

``(IV) Calculation requirements.--In calculating tradeoffs and energy performance, the regulations prescribed under this clause shall prescribe for the taxable year the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage. Where a State has developed annual energy usage and cost calculation procedures based on time of usage costs for use in the performance standards of the State's building energy code prior to the effective date of this section, the State may use those annual energy usage and cost calculation procedures in lieu of those adopted by the Secretary.

``(V) Approval of software submissions.--The Secretary shall approve software submissions which comply with the requirements of subclause (III).

``(VI) Procedures for inspection and testing of homes.--The Secretary shall ensure that procedures for the inspection and testing for compliance comply with the calculation requirements under subclause (IV) of this clause and clause (iv).

``(iii) Determinations of compliance.--A determination of compliance with respect to energy efficient residential rental building property made for the purposes of this subparagraph shall be filed with the Secretary not later than 1 year after the date of such determination and shall include the TIN of the certifier, the address of the building in compliance, and the identity of the person for whom such determination was performed. Determinations of compliance filed with the Secretary shall be available for inspection by the Secretary of Energy.

``(iv) Compliance.--

``(I) In general.--The Secretary, after consultation with the Secretary of Energy, shall establish requirements for certification and compliance procedures after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Home Energy Rating Standards.

``(II) Individuals qualified to determine compliance.--The determination of compliance may be provided by a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or an accredited home energy rating system provider. All providers shall be accredited, or otherwise authorized to use approved energy performance measurement methods, by the Residential Energy Services Network (RESNET).

``(C) Allocation of deduction for public property.--In the case of energy efficient residential rental building property which is public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the improvements to the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the taxpayer for purposes of this subsection.

``(f) Special Rules.--For purposes of this section--

``(1) Basis reduction.--For purposes of this subtitle, if a deduction is allowed under this section with respect to any property, the basis of such property shall be reduced by the amount of the deduction so allowed.

``(2) Double benefit.--Property which would, but for this paragraph, be eligible for a deduction under more than one provision of this section shall be eligible only under one such provision, the provision specified by the taxpayer.

``(g) Regulations.--The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

``(h) Termination.--This section shall not apply with respect to--

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

((2) any energy efficient residential rental building property expenditures in connection with property--

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

((B) the construction, reconstruction, erection, or rehabilitation of which is not completed on or before December 31, 2009.'').

(b) Conforming Amendments.--

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

((A) which is equipment used to produce, distribute, or use energy derived from a geothermal deposit (within the meaning of section 613(e) (2)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage,'').

(2) Subparagraph (B) of section 168(e) (3) of such Code is amended--

(A) in clause (vi) (I)--

(i) by striking ``section 48(a) (3)'' and inserting ``section 200(d) (1)'', and

(ii) by striking ``clause (i)'' and inserting ``such subparagraph (A)'', and

(B) in the last sentence, by striking ``section 48(a) (3)'' and inserting ``section 200(c) (3)''.

(3) Section 1016(a) of such Code, as amended by section 102, is amended by striking ``and'' at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting ``, and'', and by inserting the following new paragraph:

((34) for amounts allowed as a deduction under section 200(a).''.

(c) Clerical Amendment.--The table of sections for part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

``Sec. 200. Energy property deduction.''.

(d) Authorization of Appropriations.--There are authorized to be appropriated to the Department of Energy out of amounts not already appropriated such sums as necessary to carry out this section.

(e) Effective Date.--The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 104. CREDIT FOR CERTAIN NONBUSINESS ENERGY PROPERTY.

(a) In General.--Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

``SEC. 25C. NONBUSINESS ENERGY PROPERTY.

((a) Allowance of Credit.--

((1) In general.--In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of--

((A) the amount determined under subsection (b) for each qualified energy property of the taxpayer placed in service during such taxable year, and

((B) so much of the credit amount specified in paragraph (2) which does not exceed the expenditures made by the taxpayer in connection with the

construction, reconstruction, erection, or rehabilitation of a dwelling unit of the taxpayer which results in the unit being a highly energy-efficient principal residence.

For purposes of subparagraph (B), the expenditures may include labor costs properly allocable to the onsite preparation, assembly, or original installation of such property.

(2) Credit amount.--The credit amount with respect to a highly energy-efficient principal residence is--

(A) \$2,000 in the case of a percentage reduction of 50 percent as determined under subsection (c) (6) (A) (iii), and

(B) \$4,000 times the percentage reduction in the case of a percentage reduction of less than 50 percent as determined under subsection (c) (6) (A) (iii).

(b) Amount for Qualified Energy Property.--

(1) Residential energy property expenditures.--Except as provided in paragraph (2), the amount determined under this subsection for the taxable year for each item of qualified energy property shall equal the amount of residential energy property expenditures made by the taxpayer with respect to such property during such taxable year.

(2) Solar hot water property; photovoltaic property.--

(A) In general.--In the case of solar hot water property and photovoltaic property, the amount determined under this subsection for the taxable year shall equal the amount specified for such property in the following table:

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

(B) Elected solar hot water property.--In the case of elected solar hot water property (as defined in section 200(d) (1) (B)), the taxpayer may elect to substitute '\$7 per annual Therm of natural gas savings' for '35 cents per each kwh/year of savings' in the table contained in subparagraph (A).

(3) Maximum amount.--In the case of property described in the following table, the amount of expenditures taken into account under paragraph (1) and the amount determined under paragraph (2) for the taxable year for each item of qualified energy property with respect to a dwelling unit shall not exceed the amount specified for such property in such 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.
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.

((c) Definitions and Special Rules.--For purposes of this section--

((1) Residential energy property expenditures.--The term 'residential energy property expenditures' means expenditures made by the taxpayer for qualified energy property installed on or in connection with a dwelling unit which--

- ((A) is located in the United States, and
- ((B) is used as a principal residence.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

((2) Qualified energy property.--

((A) In general.--The term 'qualified energy property' means--

- ((i) energy-efficient building property,
- ((ii) solar hot water property,
- ((iii) photovoltaic property, and
- ((iv) an advanced main air circulating

fan.

((B) Swimming pool, etc., used as storage medium; solar panels.--For purposes of this paragraph, the provisions of subparagraphs (D) and (E) section 200(d)(1) shall apply.

((C) Required standards.--Property described under subparagraph (A) shall meet the performance and quality standards and certification standards of paragraphs (1)(D) and (2) of section 200(c).

((3) Energy-efficient building property.--The term 'energy-efficient building property' has the same meaning given the terms 'Tier 2 energy-efficient property', 'Tier 1 energy-efficient property', and 'advanced main air circulating fan' in paragraphs (2), (3), and (4) of section 200(d), respectively.

((4) Solar hot water property.--The term 'solar hot water property' means property which, when installed in connection with a structure, uses solar energy for the purpose of providing hot water for use within such structure and the performance of which is determined in accordance with section 200(c)(2)(A).

((5) Photovoltaic property.--The term 'photovoltaic property' has the same meaning given such term in section 200(d)(1)(C).

((6) Highly energy-efficient principal residence.--

((A) In general.--Property is a highly energy-efficient principal residence if--

- ((i) such property is located in the United States,
- ((ii) the property is used as a principal residence, and
- ((iii) the projected heating and cooling energy usage of such property, measured in terms of average annual energy cost to taxpayer, is reduced by a percentage certified according to subparagraph (C) in comparison to the energy cost of such property if expenditures made by the taxpayer with respect to energy efficient improvements to such property were not made.

((B) Principal residence.--

- ((i) In general.--The term 'principal residence' has the same meaning as when used in section 121, except that--
 - ((I) no ownership requirement

shall be imposed, and

``(II) the period for which a building is treated as used as a principal residence shall also include the 60-day period ending on the 1st day on which it would (but for this subparagraph) first be treated as used as a principal residence.

``(ii) Manufactured housing.--The term 'residence' shall include a dwelling unit which is a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

``(C) Certification procedures.--

``(i) In general.--For purposes of subparagraph (A)(iii), energy usage shall be demonstrated by performance-based compliance.

``(ii) Performance-based compliance.--Performance-based compliance shall be demonstrated if the percent energy cost savings for heating and cooling is met with respect to a dwelling unit when compared to the original condition of the dwelling unit.

``(iii) Computer software.--Computer software shall be used in support of performance-based compliance under clause (ii) and such software shall meet all of the procedures and methods for calculating energy savings reductions which are promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2005 California Residential Alternative Calculation Method Approval Manual.

``(iv) Calculation requirements.--In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage. If a State has developed annual energy usage and cost calculation procedures based on time of usage costs for use in the performance standards of the State's building energy code before the effective date of this section, the State may use those annual energy usage and cost calculation procedures in lieu of those adopted by the Secretary.

``(v) Approval of software submissions.--The Secretary shall approve software submissions which comply with the calculation requirements of clause (iii).

``(vi) Procedures for inspection and testing of dwelling units.--The Secretary shall ensure that procedures for the inspection and testing for compliance comply with the calculation requirements under clause (iii) and subsection (d)(2).

``(d) Special Rules.--For purposes of this section--

``(1) Determinations of compliance.--A determination of compliance made for the purposes of this section shall be filed with the Secretary within 1 year of the date of such determination and shall include the TIN of the certifier, the address of the building in compliance, and the identity of the person for whom such determination was performed.

Determinations of compliance filed with the Secretary shall be available for inspection by the Secretary of Energy.

((2) Compliance.--

((A) In general.--The Secretary, after consultation with the Secretary of Energy shall establish requirements for certification and compliance procedures after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Home Energy Rating Standards.

((B) Individuals qualified to determine compliance.--The determination of compliance may be provided by a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or an accredited home energy rating system provider. All providers shall be accredited, or otherwise authorized to use approved energy performance measurement methods, by the Residential Energy Services Network (RESNET).

((3) Dollar amounts in case of joint occupancy.--In the case of any dwelling unit which is jointly occupied and used during any calendar year as a principal residence by 2 or more individuals the following rules shall apply:

((A) The amount of the credit allowable under subsection (a) by reason of expenditures made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

((B) There shall be allowable with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

((4) Tenant-stockholder in cooperative housing corporation.--In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation and such credit shall be allocated pro rata to such individual.

((5) Condominiums.--

((A) In general.--In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association and any credit shall be allocated appropriately.

((B) Condominium management association.--For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as principal residences.

((6) Joint ownership of energy items.--

((A) In general.--Any expenditure otherwise qualifying as an expenditure under this section shall not be treated as failing to so qualify merely because such expenditure was made with respect to 2 or more

dwelling units.

((B) Limits applied separately.--In the case of any expenditure described in subparagraph (A), the amount of the credit allowable under subsection (a) shall (subject to paragraph (1)) be computed separately with respect to the amount of the expenditure made for each dwelling unit.

((7) Allocation in certain cases.--If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

((8) Coordination with other credits.--Property which would, but for this paragraph, be eligible for credit under more than one provision of this section shall be eligible only under one such provision, the provision specified by the taxpayer.

((9) Year credit allowed.--The credit under subsection (a) (2) shall be allowed in the taxable year in which the percentage reduction with respect to the principal residence is certified.

((10) When expenditure made; amount of expenditure.--

((A) In general.--Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

((B) Expenditures part of building construction.--In the case of an expenditure in connection with the construction of a structure, such expenditure shall be treated as made when the original use of the constructed structure by the taxpayer begins.

((11) Property financed by subsidized energy financing.--

((A) Reduction of expenditures.--

((i) In general.--Except as provided in subparagraph (C), for purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing.

((ii) Subsidized energy financing.--For purposes of clause (i), the term 'subsidized energy financing' has the same meaning given such term in section 48(a) (4) (C).

((B) Dollar limits reduced.--The dollar amounts in the table contained in subsection (b) (3) with respect to each property purchased for such dwelling unit for any taxable year of such taxpayer shall be reduced proportionately by an amount equal to the sum of--

((i) the amount of the expenditures made by the taxpayer during such taxable year with respect to such dwelling unit and not taken into account by reason of subparagraph (A), and

((ii) the amount of any Federal, State, or local grant received by the taxpayer during such taxable year which is used to make residential energy property expenditures with respect to the dwelling unit and is not included in the gross income of such taxpayer.

((C) Exception for state programs.--Subparagraphs (A) and (B) shall not apply to expenditures made with respect to property for which the taxpayer has received a loan, State tax credit, or grant under any State energy program.

((e) Basis Adjustments.--For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect

to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

((f) Regulations.--The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

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

(b) Conforming Amendments.--

(1) Subsection (a) of section 1016 of the Internal Revenue Code of 1986, as amended by section 103, is amended by striking 'and' at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting ', and', and by adding at the end the following new paragraph:

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

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25B the following new item:

Sec. 25C. Nonbusiness energy property.

(c) Effective Dates.--The amendments made by this section shall apply to expenditures made after December 31, 2004.

SEC. 105. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) In General.--Section 48(a)(3)(A) of the Internal Revenue Code of 1986 (defining energy property), as amended by section 103, is amended to read as follows:

((A) which is--

((i) equipment used to produce, distribute, or use energy derived from a geothermal deposit (within the meaning of section 613(e)(2)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage, or

((ii) combined heat and power system property.

(b) Combined Heat and Power System Property.--Section 48 of the Internal Revenue Code of 1986 (relating to energy credit; reforestation credit) is amended by adding at the end the following new subsection:

((c) Combined Heat and Power System Property.--For purposes of subsection (a)(3)(A)(ii)--

((1) Combined heat and power system property.--The term 'combined heat and power system property' means property comprising a system--

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

((B) which has an electrical capacity of not more than 15 megawatts or a mechanical energy capacity of not more than 2,000 horsepower or an equivalent combination of electrical and mechanical energy capacities,

((C) which produces--

((i) at least 20 percent of its total

useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

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

``(D) the energy efficiency percentage of which exceeds 60 percent, and

``(E) which is placed in service before January 1, 2008.

``(2) Special rules.--

``(A) Energy efficiency percentage.--For purposes of this subsection, the energy efficiency percentage of a system is the fraction--

``(i) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

``(ii) the denominator of which is the lower heating value of the fuel sources for the system.

``(B) Determinations made on btu basis.--The energy efficiency percentage and the percentages under paragraph (1)(C) shall be determined on a Btu basis.

``(C) Input and output property not included.--The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

``(D) Public utility property.--

``(i) Accounting rule for public utility property.--If the combined heat and power system property is public utility property (as defined in section 168(i)(10)), the taxpayer may only claim the credit under subsection (a) if, with respect to such property, the taxpayer uses a normalization method of accounting.

``(ii) Certain exception not to apply.--The matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to combined heat and power system property.

``(3) Systems using bagasse.--If a system is designed to use bagasse for at least 90 percent of the energy source--

``(A) paragraph (1)(D) shall not apply, but

``(B) the amount of credit determined under subsection (a) with respect to such system shall not exceed the amount which bears the same ratio to such amount of credit (determined without regard to this paragraph) as the energy efficiency percentage of such system bears to 60 percent.''.

(c) Effective Date.--The amendments made by this subsection shall apply to periods after December 31, 2004, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

TITLE II--ENERGY EFFICIENT PRODUCTS

SEC. 201. ENERGY CONSERVATION STANDARDS FOR ADDITIONAL PRODUCTS.

(a) Definitions.--Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended--

(1) in paragraph (30)(S)--

(A) by inserting ``(i)'' before ``The term''; and

(B) by adding at the end the following:

((ii) The term 'medium base compact fluorescent lamp' does not include--

((I) any lamp that is--

((aa) specifically designed to be used for special purpose applications; and

((bb) unlikely to be used in general purpose applications, such as the applications described in subparagraph (D); or

((II) any lamp not described in subparagraph (D) that is excluded by the Secretary, by rule, because the lamp is--

((aa) designed for special applications; and

((bb) unlikely to be used in general purpose applications.''); and

(2) by adding at the end the following:

((32) The term 'battery charger' means a device that charges batteries for consumer products, including battery chargers embedded in other consumer products.

((33) The term 'ceiling fan' means a nonportable device that is suspended from a ceiling for circulating air via the rotation of fan blades.

((34) The term 'ceiling fan light kit' means equipment designed to provide light from a ceiling fan that can be--

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

((B) attachable, such that at the time of retail sale the equipment is not physically attached to the ceiling fan, but may be included inside the ceiling fan package at the time of sale or sold separately for subsequent attachment to the fan.

((35) The term 'commercial refrigerators, freezers, and refrigerator-freezers' means refrigerators, freezers, or refrigerator-freezers that--

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

((B) incorporate most components involved in the vapor-compression cycle and the refrigerated compartment in a single package.

((36) The term 'dehumidifier' means a self-contained, electrically operated, and mechanically encased assembly consisting of--

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

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

((C) an air-circulating fan; and

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

((37) (A) The term 'distribution transformer' means a transformer that--

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

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

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

((B) The term 'distribution transformer' does not include--

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

((ii) a transformer that is designed to be used in a special purpose application and is unlikely to be

used in general purpose applications, such as a drive transformer, rectifier transformer, auto-transformer, Uninterruptible Power System transformer, impedance transformer, harmonic transformer, regulating transformer, sealed and nonventilating transformer, machine tool transformer, welding transformer, grounding transformer, or testing transformer; or

``(iii) any transformer not listed in clause (ii) that is excluded by the Secretary by rule because--

``(I) the transformer is designed for a special application;

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

``(III) the application of standards to the transformer would not result in significant energy savings.

``(38) The term 'external power supply' means an external power supply circuit that is used to convert household electric current into DC current or lower-voltage AC current to operate a consumer product.

``(39) The term 'illuminated exit sign' means a sign that--

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

``(B) consists of an electrically powered integral light source that--

``(i) illuminates the legend 'EXIT' and any directional indicators; and

``(ii) provides contrast between the legend, any directional indicators, and the background.

``(40) The term 'low-voltage dry-type distribution transformer' means a distribution transformer that--

``(A) has an input voltage of 600 volts or less;

``(B) is air-cooled; and

``(C) does not use oil as a coolant.

``(41) The term 'standby mode' means the lowest power consumption mode, as established on an individual product basis by the Secretary, that--

``(A) cannot be switched off or influenced by the user; and

``(B) may persist for an indefinite time when an appliance is--

``(i) connected to the main electricity supply; and

``(ii) used in accordance with the instructions of the manufacturer.

``(42) The term 'torchiere' means a portable electric lamp with a reflector bowl that directs light upward to give indirect illumination.

``(43) The term 'traffic signal module' means a standard 8-inch (200mm) or 12-inch (300mm) traffic signal indication that--

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

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

``(44) The term 'transformer' means a device consisting of 2 or more coils of insulated wire that transfers alternating current by electromagnetic induction from 1 coil to another to change the original voltage or current value.

``(45) (A) The term 'unit heater' means a self-contained fan-type heater designed to be installed within the heated space.

``(B) The term 'unit heater' does not include a warm air furnace.

``(46) (A) The term 'commercial prerinse spray valve' means

a handheld device designed and marketed for use with commercial dishwashing and ware washing equipment that sprays water on dishes, flatware, and other food service items for the purpose of removing food residue before cleaning the items.

((B) The Secretary may modify the definition of 'commercial prerinse spray valve' by rule--

((i) to include products--

((I) that are extensively used in conjunction with commercial dishwashing and ware washing equipment;

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

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

((ii) to exclude products--

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

((II) that are unlikely to be widely used in conjunction with commercial dishwashing and ware washing equipment; and

((III) the application of standards to which would not result in significant energy savings.').

(b) Test Procedures.--Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) is amended--

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

((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 346(a), the test procedures established under subparagraph (A) shall be considered to be the testing requirements prescribed by the Secretary under section 346(a)(1) 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 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 the date of enactment of this paragraph.

((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 325(bb).

((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 life time, medium-base compact fluorescent lamps may be marketed before completion of lamp life and lumen maintenance at 40 percent of rated life testing.

((13) Air movement test procedures for ceiling fans shall be based on the test procedure contained in the Energy Star Program Requirements for Residential Ceiling Fans, version 2.0, developed by the Environmental Protection Agency, unless, pursuant to this section, the

Secretary promulgates an alternative test procedure.

((14) 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 the date of enactment of this paragraph unless revised by the Secretary pursuant to this section.

((15) 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 Prerinse Spray Valves.' ''; and

(2) by adding at the end the following:

((f) Additional Consumer and Commercial Products.--(1) Not later than 2 years after the date of enactment of this subsection, the Secretary shall prescribe testing requirements for--

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

((B) commercial refrigerators, freezers, and refrigerator-freezers.

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

(c) New Standards.--Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding at the end the following:

((u) Battery Charger and External Power Supply Electric Energy Consumption.--(1) (A) Not later than 18 months after the date of enactment of this subsection, the Secretary shall, after providing notice and an opportunity for comment, prescribe, by rule, definitions and test procedures for the power use of battery chargers and external power supplies.

((B) In establishing the test procedures under subparagraph (A), the Secretary shall--

((i) consider existing definitions and test procedures used for measuring energy consumption in standby mode and other modes; and

((ii) assess the current and projected future market for battery chargers and external power supplies.

((C) The assessment under subparagraph (B) (ii) shall include--

((i) estimates of the significance of potential energy savings from technical improvements to battery chargers and external power supplies; and

((ii) suggested product classes for standards.

((D) Not later than 18 months after the date of enactment of this subsection, the Secretary shall hold a scoping workshop to discuss and receive comments on plans for developing energy conservation standards for energy use for battery chargers and external power supplies.

((E) (i) Not later than 3 years after the date of enactment of this subsection, the Secretary shall issue a final rule that determines whether energy conservation standards shall be issued for battery chargers and external power supplies or classes of battery chargers and external power supplies.

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

((I) meets the criteria and procedures of subsections (o), (p), (q), (r), (s), and (t); and

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

((2) In determining under section 323 whether test procedures and energy conservation standards under this section should be revised with respect to covered products that are major sources of standby mode energy consumption, the Secretary shall consider whether to incorporate standby mode into the test procedures and energy conservation standards, taking into account standby mode power consumption compared to overall product energy consumption.

((3) The Secretary shall not propose a standard under this section unless the Secretary has issued applicable test procedures for each

product under section 323.

((4) Any standard issued under this subsection shall be applicable to products manufactured or imported beginning on the date that is 3 years after the date of issuance.

((5) The Secretary and the Administrator shall collaborate and develop programs (including Energy Star Programs and other voluntary industry agreements or codes of conduct) that are designed to reduce standby mode energy use.

((v) Vending Machines and Commercial Refrigerators, Freezers, and Refrigerator-Freezers.--(1) Not later than 3 years after the date on which testing requirements are prescribed by the Secretary under section 323(f), the Secretary shall prescribe, by rule, energy conservation standards for--

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

((B) commercial refrigerators, freezers, and refrigerator-freezers.

((2) In establishing standards under this subsection, the Secretary shall use the criteria and procedures prescribed under subsections (o) and (p).

((3) Any standard prescribed under this subsection shall apply to products manufactured 3 years after the date of publication of a final rule establishing the standard.

((w) Illuminated Exit Signs.--An illuminated exit sign manufactured on or after January 1, 2006, shall meet the version 2.0 Energy Star Program performance requirements for illuminated exit signs prescribed by the Environmental Protection Agency.

((x) Torchieres.--A torchiere manufactured on or after January 1, 2006--

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

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

((y) Low Voltage Dry-Type Distribution Transformers.--The efficiency of a low voltage dry-type distribution transformer manufactured on or after January 1, 2006, shall be the Class I Efficiency Levels for distribution transformers specified in table 4-2 of the 'Guide for Determining Energy Efficiency for Distribution Transformers' published by the National Electrical Manufacturers Association (NEMA TP-1-2002).

((z) Traffic Signal Modules.--A traffic signal module manufactured on or after January 1, 2007, shall--

((1) meet the performance requirements used under the Energy Star program of the Environmental Protection Agency for traffic signals, as in effect on the date of enactment of this subsection; and

((2) be installed with compatible, electrically connected signal control interface devices and conflict monitoring systems.

((aa) Unit Heaters.--A unit heater manufactured on or after the date that is 3 years after the date of enactment of this subsection shall--

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

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

((bb) Medium-Base Compact Fluorescent Lamps.--(1) A bare lamp and covered lamp (no reflector) medium-base compact fluorescent lamp manufactured on or after January 1, 2006, shall meet the following requirements prescribed by the August 9, 2001, version of the Energy Star Program Requirements for Compact Fluorescent Lamps, Energy Star Eligibility Criteria, Energy-Efficiency Specification issued by the Environmental Protection Agency and Department of Energy:

((A) Minimum initial efficacy.

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

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

((D) Rapid cycle stress test.

((E) Lamp life.

((2) The Secretary may, by rule, establish requirements for color

quality (CRI), power factor, operating frequency, and maximum allowable start time based on the requirements prescribed by the August 9, 2001, version of the Energy Star Program Requirements for Compact Fluorescent Lamps.

“(3) The Secretary may, by rule--

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

“(B) establish other requirements, after considering energy savings, cost effectiveness, and consumer satisfaction.

“(cc) Ceiling Fans and Ceiling Fan Light Kits.--(1) (A) All ceiling fans manufactured on or after January 1, 2008, shall have the following features:

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

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

“(iii) The capability of reversible fan action, except for fans sold for industrial applications, outdoor applications, and where safety standards would be violated by the use of the reversible mode.

“(B) The Secretary may promulgate regulations to define in greater detail the exceptions provided under subparagraph (A) (iii) but may not substantively expand the exceptions.

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

“(A) meet the Energy Star Program Requirements for Residential Light Fixtures, version 3.1, issued by the Environmental Protection Agency, and be packaged with lamps to fill all sockets;

“(B) be packaged with screw-based compact fluorescent lamps to fill all sockets and meet the Energy Star Program Requirements for Compact Fluorescent Lamps, version 3.0, issued by the Department of Energy; or

“(C) use and be packaged with light sources other than compact fluorescent lamps that meet the minimum efficacy requirements, as measured in lumens per watt, of the Energy Star Program Requirements for Compact Fluorescent Lamps, version 3.0, issued by the Department of Energy.

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

“(B) If the Secretary sets the standards, the Secretary shall consider--

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

“(ii) establishing separate exempted product classes for highly decorative fans for which air movement performance is a secondary design feature.

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

“(dd) Dehumidifiers.--(1) Dehumidifiers manufactured on or after October 1, 2008, shall have an Energy 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.

“(2) (A) Not later than October 1, 2010, the Secretary shall publish a final rule in accordance with subsections (o) and (p), to determine whether the standards established under paragraph (1) should

be amended.

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

((C) If the Secretary does not publish an amendment that takes effect by October 1, 2012, dehumidifiers manufactured on or after October 1, 2012, shall have an Energy 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.

((ee) Commercial Prerinse Spray Valves.--Commercial prerinse spray valves manufactured on or after January 1, 2006, shall have a flow rate less than or equal to 1.6 gallons per minute.

((ff) Effective Date.--Section 327 shall apply to--

((1) a product for which standards are to be established under subsections (u) and (v) on the date on which a final rule is issued by the Department of Energy, except that any State or local standards prescribed or enacted for the product before the date on which the final rule is issued shall not be preempted until the standard established under subsection (u) or (v) for the product takes effect; and

((2) a product for which standards are established under subsections (w) through (ee) on the date of enactment of those subsections, except that any State or local standards prescribed or enacted before the date of enactment of those subsections shall not be preempted until the standards established under subsections (w) through (ee) take effect.').

(d) Residential Furnace Fans.--Section 325(f)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6295(f)(3)) is amended by adding at the end the following:

((D) Notwithstanding any other provision of this Act, if the requirements of subsection (o) are met, the Secretary may consider and prescribe energy efficiency or energy use standards for electricity used for purposes of circulating air through duct work.').

(e) General Rule of Preemption.--Section 327(c) of the Energy Policy and Conservation Act (42 U.S.C. 6297(c)) is amended--

- (1) in paragraph (5), by striking "or" at the end;
- (2) in paragraph (6), by striking the period at the end and inserting "; or"; and
- (3) by adding at the end the following:

((7) is a regulation concerning standards for commercial prerinse spray valves adopted by the California Energy Commission before January 1, 2005, or is an amendment to such a regulation developed to align California regulations with changes in American Society for Testing and Materials Regulation F2324.').

SEC. 202. ENERGY LABELING.

(a) Rulemaking on Effectiveness of Consumer Product Labeling.--Section 324(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding at the end the following:

((F) (i) Not later than 90 days after the date of enactment of this subparagraph, the Commission shall initiate a rulemaking to consider--

- ((I) the effectiveness of the consumer products labeling program in--
 - ((aa) assisting consumers in making purchasing decisions; and
 - ((bb) improving energy efficiency; and
- ((II) changes to the labeling rules that would improve the

effectiveness of consumer product labels.

``(ii) Not later than 2 years after the date of enactment of this subparagraph, the Commission shall complete the rulemaking initiated under clause (i).''.

(b) Rulemaking on Labeling for Additional Products.--Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is amended by adding at the end the following:

``(5) (A) After a test procedure has been prescribed under section 323, the Secretary or the Commission, as appropriate, may, for covered products referred to in subsections (u) through (ee) of section 325, prescribe, by rule, under this section, labeling requirements for the products.

``(B) In the case of products to which TP-1 standards under section 325(y) apply, labeling requirements shall be based on the `Standard for the Labeling of Distribution Transformer Efficiency' prescribed by the National Electrical Manufacturers Association (NEMA TP-3) as in effect on the date of enactment of this paragraph.

``(C) In the case of dehumidifiers covered under section 325(dd), the Commission shall not require an Energy Guide label.

``(6) (A) Not later than July 1, 2006, the Commission shall prescribe by rule, pursuant to this section, labeling requirements for the electricity used by ceiling fans to circulate air in a room.

``(B) The requirements shall be based on the test procedure and labeling requirements contained in the Energy Star Program Requirements for Residential Ceiling Fans, version 2.0, issued by the Environmental Protection Agency, except that third party testing and other non-labeling requirements shall not be promulgated unless the Commission determines the requirements are necessary to achieve compliance.

``(C) The rule shall apply to products manufactured after the later of--

``(i) January 1, 2008; or

``(ii) the date that is 60 days after the final rule is prescribed.''.

SEC. 203. COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT.

(a) Definitions.--Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended--

(1) in paragraph (1)--

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

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

``(D) Very large commercial package air conditioning and heating equipment.'';

(2) in paragraph (2) (B), by striking ``small and large''; and

(3) by striking paragraphs (8) and (9) and inserting the following:

``(8) (A) The term `commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application.

``(B) The term `small commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated below 135,000 Btu per hour (cooling capacity).

``(C) The term `large commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated at or above 135,000 Btu per hour and below 240,000 Btu per hour (cooling capacity).

``(D) The term `very large commercial package air conditioning and heating equipment' means commercial package

air conditioning and heating equipment that is rated at or above 240,000 Btu per hour and below 760,000 Btu per hour (cooling capacity).''.

(b) Standards.--Section 342(a) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)) is amended--

(1) in the subsection heading, by striking ``Small and Large'' and inserting ``Small, Large, and Very Large'';

(2) in paragraph (1), by inserting ``but before January 1, 2010,'' after ``January 1, 1994,'';

(3) in paragraph (2), by inserting ``but before January 1, 2010,'' after ``January 1, 1995,''; and

(4) in paragraph (6)--

(A) in subparagraph (A)--

(i) by inserting ``(i)'' after ``(A)'';

(ii) by striking ``the date of enactment of the Energy Policy Act of 1992'' and inserting ``January 1, 2010'';

(iii) by inserting after ``large commercial package air conditioning and heating equipment'' the following: ``and very large commercial package air conditioning and heating equipment, or if ASHRAE/IES Standard 90.1, as in effect on October 24, 1992, is amended with respect to any''; and

(iv) by adding at the end the following:

``(ii) If ASHRAE/IES Standard 90.1 is not amended with respect to small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, and very large commercial package air conditioning and heating equipment during the 5-year period beginning on the effective date of a standard, the Secretary may initiate a rulemaking to determine whether a more stringent standard would result in significant additional conservation of energy and is technologically feasible and economically justified.''; and

(B) in subparagraph (C)(ii), by inserting ``and very large commercial package air conditioning and heating equipment'' after ``large commercial package air conditioning and heating equipment''; and

(5) by adding at the end the following:

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

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

``(i) 11.2 for equipment with no heating or electric resistance heating; and

``(ii) 11.0 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

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

``(i) 11.0 for equipment with no heating or electric resistance heating; and

``(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

``(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.3 (at a high temperature rating of 47 degrees F db).

``(8) Each large commercial package air conditioning and heating

equipment manufactured on or after January 1, 2010, shall meet the following standards:

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

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

((ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

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

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

((ii) 10.4 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

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

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

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

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

((ii) 9.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

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

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

((ii) 9.3 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

((C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be 3.2 (at a high temperature rating of 47 degrees F db).''.

(c) Test Procedures.--Section 343 of the Energy Policy and Conservation Act (42 U.S.C. 6314) is amended in subsections (a)(4) and (d)(1), by inserting ``very large commercial package air conditioning and heating equipment,'' after ``large commercial package air conditioning and heating equipment,'' each place it appears.

(d) Labeling.--Section 344(e) of the Energy Policy and Conservation Act (42 U.S.C. 6315(e)) is amended in the first and second sentences, by inserting ``very large commercial package air conditioning and heating equipment,'' after ``large commercial package air conditioning and heating equipment,'' each place it appears.

(e) Administration, Penalties, Enforcement, and Preemption.--Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316) is amended by adding at the end the following:

((d)(1) Except as provided in paragraphs (2) and (3), section 327 shall apply with respect to the equipment specified in section

340(1)(D) to the same extent and in the same manner as section 327 applies under part B on the date of enactment of this subsection.

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

((3) If the California Energy Commission adopts, not later than March 31, 2006, a regulation concerning the energy efficiency or energy use of the equipment specified in section 340(1)(D), the regulation shall be effective until, and shall no longer be effective after, the standards established under section 342(a)(9) take effect on January 1, 2010.''

SEC. 204. COMMERCIAL REFRIGERATORS, FREEZERS, AND REFRIGERATOR-FREEZERS.

(a) Definitions.--Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311), as amended by section 203, is amended--

(1) in paragraph (1)--

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

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

((H) commercial refrigerators, freezers, and refrigerator-freezers.''; and

(2) by adding at the end the following:

((19) (A) The term 'commercial refrigerator, freezer, and refrigerator-freezer' means refrigeration equipment that--

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

((ii) operates at a chilled, frozen, combination chilled and frozen, or variable temperature;

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

((iv) has transparent or solid doors, sliding or hinged doors, a combination of hinged, sliding, transparent, or solid doors, or no doors;

((v) is designed for pull-down temperature applications or holding temperature applications; and

((vi) is connected to a self-contained condensing unit or to a remote condensing unit.

((B) The term 'holding temperature application' means a use of commercial refrigeration equipment other than a pull-down temperature application, except a blast chiller or freezer.

((C) The term 'integrated average temperature' means the average temperature of all test package measurements taken during the test.

((D) The term 'pull-down temperature application' means a commercial refrigerator with doors that, when fully loaded with 12 ounce beverage cans at 90 degrees F, can cool those beverages to an average stable temperature of 38 degrees F in 12 hours or less.

((E) The term 'remote condensing unit' means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is remotely located from the refrigerated equipment and consists of 1 or more refrigerant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories.

((F) The term 'self-contained condensing unit' means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is an integral part of the refrigerated equipment and consists of 1 or more refrigerant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories.''

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

((c) Commercial Refrigerators, Freezers, and Refrigerator-freezers.--(1) In this subsection:

((A) The term `AV' means the adjusted volume (ft³) (defined as 1.63 x frozen temperature compartment volume (ft³) + chilled temperature compartment volume (ft³)) with compartment volumes measured in accordance with the Association of Home Appliance Manufacturers Standard HRF1-1979.

((B) The term `V' means the chilled or frozen compartment volume (ft³) (as defined in the Association of Home Appliance Manufacturers Standard HRF1-1979).

((C) Other terms have the meanings established by the Secretary, based on industry-accepted definitions and practice.

((2) Each commercial refrigerator, freezer, and refrigerator-freezer with a self-contained condensing unit designed for holding temperature applications manufactured on or after January 1, 2010, shall meet the following 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

((3) Each commercial refrigerator with a self-contained condensing unit designed for pull-down temperature applications manufactured on or after January 1, 2010, shall meet the following standard levels in kilowatt hours per day: Refrigerators with transparent doors 0.126 V + 3.51.

((4) (A) Not later than January 1, 2009, the Secretary of Energy shall prescribe, by rule, standard levels for ice-cream freezers, self-contained commercial refrigerators, freezers, and refrigerator-freezers without doors, and remote condensing commercial refrigerators, freezers, and refrigerator-freezers, with the standard levels effective for equipment manufactured on or after January 1, 2012.

((B) Not later than January 1, 2009, the Secretary shall prescribe, by rule, standard levels for other types of commercial refrigerators, freezers, and refrigerator-freezers not covered by paragraphs (1), (2), and (3) and subparagraph (A) with the standard levels effective for equipment manufactured on or after January 1, 2012.

((5) (A) (i) Not later than January 1, 2013, the Secretary shall publish a final rule to determine if the standards established under paragraphs (1), (2), (3), and (4) (A) should be amended.

((ii) The rule shall provide that any amended standards shall apply to products manufactured on or after the date that is 3 years after the final amended standard is published unless the Secretary determines, by rule, that 3 years is inadequate, in which case the Secretary may establish an application date for products manufactured not later than 5 years after the final amended standard is published.

((B) (i) Not later than 3 years after the amended final standard referred to in subparagraph (A) takes effect or after the Secretary publishes a final rule determining that the standard should not be amended, the Secretary shall publish a final rule to determine if the standards established under paragraphs (1), (2), (3), and (4) (A) should be amended.

((ii) The rule shall provide that any amended standards shall apply to products manufactured on or after the date that is 3 years after the final amended standard is published unless the Secretary determines, by rule, that 3 years is inadequate, in which case the Secretary may establish an application date for products manufactured

not later than 5 years after the final amended standard is published.''.

(c) Test procedures.--Section 343 of the Energy Policy and Conservation Act (42 U.S.C. 6314) is amended--

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

``(6) (A) (i) In the case of commercial refrigerators, freezers, and refrigerator-freezers, the test procedures shall be the test procedures determined by the Secretary to be generally accepted industry testing procedures or rating procedures developed or recognized by the ASHRAE or by the American National Standards Institute.

``(ii) In the case of self-contained refrigerators, freezers, and refrigerator-freezers to which standards are applicable under subsection 342(c) (1), the initial test procedures shall be ASHRAE 117 that is in effect on January 1, 2005.

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

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

``(D) In establishing the appropriate test temperatures under this subparagraph, the Secretary shall follow the procedures and meet the requirements specified in section 323(e).

``(E) (i) Not later than 180 days after the publication of the new ASHRAE 117 test procedure, if the ASHRAE 117 test procedure for commercial refrigerators, freezers, and refrigerator-freezers is amended, the Secretary shall, by rule, amend the test procedure for the product as necessary to be consistent with the amended ASHRAE 117 test procedure unless the Secretary makes a determination, by rule, and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures described in paragraphs (2) and (3).

``(ii) If the Secretary needs more than 180 days to review and adopt the amended test procedure or rating procedure, the Secretary shall publish a notice in the Federal Register stating the intent of the Secretary to take up to an additional 1 year before the amended test procedure or rating procedure would become effective.

``(F) (i) If another test procedure besides ASHRAE 117 is approved by the American National Standards Institute, the Secretary shall, by rule--

``(I) review the relative strengths and weaknesses of the new test procedure relative to ASHRAE 117; and

``(II) based on that review, adopt 1 of those test procedures for subsequent use in the standards program.

``(ii) If a new test procedure is adopted--

``(I) section 323(e) shall apply; and

``(II) subparagraph (B) shall apply to the adopted test procedure.''; and

(2) in subsection (d) (1), by striking ``and unfired hot water storage tanks,''' and inserting: ``unfired hot water storage tanks, and commercial refrigerators, freezers, and refrigerator-freezers,'''.

(d) Labeling.--Section 344(e) of the Energy Policy and Conservation Act (42 U.S.C. 6315(e)), as amended by section 203(d), is amended by striking ``and unfired hot water storage tanks'' each place it appears and inserting ``unfired hot water storage tanks, and commercial refrigerators, freezers, and refrigerator-freezers''.

(e) Administration, Penalties, Enforcement, and Preemption.--Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316), as amended by section 203(e), is amended by adding at the end the following:

``(e) (1) (A) The provisions of subsections (a), (b), and (d) of

section 326, subsections (m) through (s) of section 325, and sections 328 through 336 shall apply with respect to equipment specified in section 340(1)(G) to the same extent and in the same manner as those provisions apply under part B.

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

``(2)(A)(i) The provisions of section 327 shall apply with respect to the equipment specified in section 340(1)(G) that have standards established under section 342(c)(2) to the same extent and in the same manner as those provisions apply under part B on the date of enactment of this subsection, except that any State or local standard prescribed or enacted before the date of enactment of this subsection shall not be preempted until the standards established under section 342(c) take effect.

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

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

``(3)(A) The provisions of section 327 shall apply with respect to the equipment specified in 340(1)(G) that have standards established under section 342(c)(3) to the same extent and in the same manner as they apply under part B on the date of publication of the final rule by the Secretary, except that any State or local standard prescribed or enacted before the date of publication of the final rule by the Secretary shall not be preempted until the standards take effect.

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

``(4) If the Secretary does not issue a final rule for a specific type of equipment specified in section 340(1)(G) within the time frame specified in section 342(c)(3), the provisions of subsections (b) and (c) of section 327 shall no longer apply to that specific type of equipment beginning on the date that is 2 years after the scheduled date for a final rule and until the Secretary publishes a final rule covering the specific type of equipment, at which time those provisions shall apply to the specific type of equipment.

``(5)(A) In the case of any commercial refrigerator, freezer, and refrigerator-freezer to which standards are applicable under section 342(c)(2), the Secretary shall require manufacturers to certify, through an independent testing or certification program nationally recognized in the United States, that the commercial refrigerator, freezer, and refrigerator-freezer meets the applicable standard.

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

``(C) As part of certification, information on equipment energy use and interior volume shall be made available to the Secretary.''.

TITLE III--ENERGY EFFICIENT FEDERAL PROGRAMS

SEC. 301. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

(a) Requirements.--Part 3 of title V of the National Energy Conservation Policy Act is amended--

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

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

``SEC. 551. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

``(a) Definitions.--In this section:

((1) The term 'Energy Star product' means a product that is rated for energy efficiency under an Energy Star program.

((2) The term 'Energy Star program' means the Energy Star program of the Environmental Protection Agency.

((3) The term 'executive agency' has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

((4) The term 'FEMP designated product' means a product that is designated under the Federal Energy Management Program of the Department of Energy as being among the highest 25 percent of equivalent products for energy efficiency.

((b) Procurement of Energy Efficient Products.--(1) Except as provided in paragraph (2), to meet the requirements of an executive agency for an energy consuming product, the head of the executive agency shall procure--

((A) an Energy Star product; or

((B) a FEMP designated product.

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

((A) taking into account energy cost savings, an Energy Star product or FEMP designated product is not cost-effective over the life of the product; or

((B) no Energy Star product or FEMP designated product is reasonably available that meets the functional requirements of the executive agency.

((3) The head of an executive agency shall incorporate criteria for energy efficiency that are consistent with the criteria used for rating Energy Star products and FEMP designated products into--

((A) the specifications for any procurements involving energy consuming products and systems, including--

((i) guide specifications;

((ii) project specifications; and

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

((B) the factors for the evaluation of offers received for the procurement.

((c) Listing of Energy Efficient Products in Federal Catalogs.--

(1) Any inventory or listing of products by the General Services Administration or the Defense Logistics Agency shall clearly identify and prominently display Energy Star products and FEMP designated products.

((2) (A) Except as provided in subparagraph (B), the General Services Administration or the Defense Logistics Agency shall supply only Energy Star products or FEMP designated products for all product categories covered by the Energy Star program or the Federal Energy Management Program.

((B) Subparagraph (A) shall not apply if an agency ordering a product specifies in writing that--

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

((ii) no Energy Star product or FEMP designated product is available to meet the functional requirements of the ordering agency.

((d) Specific Products.--(1) In the case of an electric motor of 1 to 500 horsepower, an executive agency shall select only a premium efficient motor that meets the standard established by the Secretary under paragraph (2).

((2) Not later than 120 days after the date of enactment of this subsection and after considering the recommendations of associated electric motor manufacturers and energy efficiency groups, the Secretary shall establish a standard for premium efficient motors.

((3) (A) Each Federal agency is encouraged to take actions (such as appropriate cleaning and maintenance) to maximize the efficiency of air

conditioning and refrigeration equipment, including the use of a system treatment or additive that--

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

((ii) meets the criteria specified in subparagraph (B).

((B) A system treatment or additive referred to in subparagraph (A) shall be--

((i) determined by the Secretary to be effective in increasing the efficiency of air conditioning and refrigeration equipment without having an adverse impact on--

((I) air conditioning and refrigeration performance (including cooling capacity); or

((II) the useful life of the equipment;

((ii) determined by the Administrator of the Environmental Protection Agency to be environmentally safe; and

((iii) shown, in tests conducted by the National Institute of Standards and Technology, in accordance with Department of Energy test procedures, to increase the seasonal energy efficiency ratio (SEER) or energy efficiency ratio (EER) without having any adverse impact on the system, system components, the refrigerant or lubricant, or other materials in the system.

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

((5) For purposes of this subsection, a hardware device or primary refrigerant shall not be considered an additive.

((e) Regulations.--Not later than 180 days after the date of enactment of this section, the Secretary shall issue guidelines to carry out this section.''.

(b) Conforming Amendment.--The table of contents of the National Energy Conservation Policy Act is amended--

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

(2) by inserting after the item relating to section 550 the following:

'`Sec. 551. Federal procurement of energy efficient products.''.

SEC. 302. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) Permanent Extension.--Effective September 30, 2005, section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) is amended by striking subsection (c).

(b) Payment of Costs.--Section 802 of the National Energy Conservation Policy Act (42 U.S.C. 8287a) is amended by inserting ', water, or wastewater treatment'' after 'payment of energy''.

(c) Energy Savings.--Section 804 of the National Energy Conservation Policy Act (42 U.S.C. 8287c) is amended by striking paragraph (2) and inserting the following:

((2) The term 'energy savings' means a reduction in the cost of energy, water, or wastewater treatment, from a base cost established through a methodology set forth in the contract, used in 1 or more existing federally owned buildings or other federally owned facilities as a result of--

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

((B) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

((C) the increased efficient use of existing water sources in interior or exterior applications.''.

(d) Energy Savings Contract.--Section 804 of the National Energy

Conservation Policy Act (42 U.S.C. 8287c) is amended by striking paragraph (3) and inserting the following:

“(3) (A) The terms ‘energy savings contract’ and ‘energy savings performance contract’ mean a contract that provides for the performance of services for the design, acquisition, installation, testing, and, as appropriate, operation, maintenance, and repair, of an identified energy or water conservation measure or series of measures at 1 or more locations.

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

(e) Energy or Water Conservation Measure.--Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:

“(4) The term ‘energy or water conservation measure’ means--

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

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

“(i) improves the efficiency of water use;

“(ii) is life-cycle cost-effective; and

“(iii) involves--

“(I) water conservation, recycling, or reuse;

“(II) more efficient treatment of wastewater or stormwater;

“(III) improvements in operation or maintenance efficiencies;

“(IV) retrofit activities; or

“(V) other related activities.”.

(f) Review.--

(1) In general.--Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall complete a review of the energy savings performance contract program carried out under title VIII of the National Energy Conservation Policy Act (42 U.S.C. 8287 et seq.) to identify--

(A) statutory, regulatory, and administrative obstacles that prevent Federal agencies from fully using the program; and

(B) any areas for increasing program flexibility and effectiveness, including--

(i) audit and measurement verification requirements;

(ii) accounting for energy use in determining savings;

(iii) contracting requirements, including the identification of additional qualified contractors; and

(iv) energy efficiency services covered.

(2) Report.--The Secretary shall--

(A) submit to Congress a report that describes the findings of the Secretary under paragraph (1); and

(B) to the extent that the changes are consistent with statutory authority, implement the identified administrative and regulatory changes to increase program flexibility and effectiveness.

(g) Extension of Authority.--Any energy savings performance contract entered into under section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) after October 1, 2004, and before the date of enactment of this Act, shall be deemed to have been entered into under that section.

SEC. 303. FEDERAL BUILDING PERFORMANCE STANDARDS.

Section 305(a) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)) is amended--

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

(2) by adding at the end the following:

``(3) (A) Not later than 1 year after the date of enactment of this paragraph, there shall be establish, by rule, revised Federal building energy efficiency performance standards that require that--

``(i) if life-cycle cost-effective for new Federal buildings--

``(I) the buildings be designed to achieve energy consumption levels that are at least 30 percent below the levels established in the version of the ASHRAE Standard or the International Energy Conservation Code, as appropriate, that is in effect as of the date of enactment of this paragraph; and

``(II) sustainable design principles are applied to the siting, design, and construction of all new and replacement buildings; and

``(ii) if water is used to achieve energy efficiency, water conservation technologies shall be applied to the extent that the technologies are life-cycle cost-effective.

``(B) Not later than 1 year after the date of approval of each subsequent revision of the ASHRAE Standard or the International Energy Conservation Code, as appropriate, the Secretary shall determine, based on the cost-effectiveness of the requirements under the amendment, whether the revised standards established under this paragraph should be updated to reflect the amendment.

``(C) In the budget request of the Federal agency for each fiscal year and each report submitted by the Federal agency under section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)), the head of each Federal agency shall include--

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

``(ii) a statement specifying whether the Federal buildings meet or exceed the revised standards established under this paragraph.''.

TITLE IV--PUBLIC HOUSING

SEC. 401. PUBLIC HOUSING CAPITAL FUND.

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

(1) in subsection (d) (1)--

(A) in subparagraph (I), by striking ``and'' at the end;

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

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

``(K) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2-1998 and A112.18.1-2000, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate; and

- ``(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures.''; and
- (2) in subsection (e) (2) (C)--
 - (A) by striking ``The'' and inserting the following:
 - ``(i) In general.--The''; and
 - (B) by adding at the end the following:
 - ``(ii) Third-party contracts.--Contracts described in clause (i) may include contracts for equipment conversions to less costly utility sources, projects with resident-paid utilities, and adjustments to frozen base year consumption, including systems repaired to meet applicable building and safety codes and adjustments for occupancy rates increased by rehabilitation.
 - ``(iii) Term of contract.--The total term of a contract described in clause (i) shall not exceed 20 years to allow longer payback periods for retrofits, including windows, heating system replacements, wall insulation, site-based generation, advanced energy savings technologies, including renewable energy generation, and other such retrofits.''.

SEC. 402. GRANTS FOR ENERGY-CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING.

Section 251(b) (1) of the National Energy Conservation Policy Act (42 U.S.C. 8231(1)) is amended--

- (1) by striking ``financed with loans'' and inserting ``assisted'';
- (2) by inserting after ``1959,'' the following: ``which are eligible multifamily housing projects (as such term is defined in section 512 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note)) and are subject to mortgage restructuring and rental assistance sufficiency plans under such Act,''; and
- (3) by inserting after the period at the end of the first sentence the following new sentence: ``Such improvements may also include the installation of energy and water conserving fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2-1998 and A112.18.1-2000, or any revision thereto, applicable at the time of installation.''.

SEC. 403. ENERGY-EFFICIENT APPLIANCES.

In purchasing appliances, a public housing agency shall purchase energy-efficient appliances that are Energy Star products or FEMP-designated products, as such terms are defined in section 553 of the National Energy Conservation Policy Act (as amended by this subtitle), unless the purchase of energy-efficient appliances is not cost-effective to the agency.

SEC. 404. ENERGY EFFICIENCY STANDARDS.

Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended--

- (1) in subsection (a)--
 - (A) in paragraph (1)--
 - (i) by striking ``1 year after the date of the enactment of the Energy Policy Act of 1992'' and inserting ``September 30, 2005'';
 - (ii) in subparagraph (A), by striking

``and'' at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting ``; and''; and

(iv) by adding at the end the following:

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

(B) in paragraph (2), by striking ``Council of American'' and all that follows through ``90.1-1989'' and inserting ``2003 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of the Efficient Energy Through Certified Technologies and Electricity Reliability (EFFECTER) Act of 2005'';

(2) in subsection (b)--

(A) by striking ``within 1 year after the date of the enactment of the Energy Policy Act of 1992'' and inserting ``by September 30, 2005''; and

(B) by striking ``CABO'' and all that follows through ``1989'' and inserting ``2003 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of the Efficient Energy Through Certified Technologies and Electricity Reliability (EFFECTER) Act of 2005''; and

(3) in subsection (c)--

(A) in the heading, by striking ``Model Energy Code'' and inserting ``The International Energy Conservation Code''; and

(B) by striking ``CABO'' and all that follows through ``1989'' and inserting ``the 2003 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of the Efficient Energy Through Certified Technologies and Electricity Reliability (EFFECTER) Act of 2005''.

TITLE V--RELIABILITY STANDARDS

SEC. 501. ELECTRIC RELIABILITY STANDARDS.

(a) In General.--Part II of the Federal Power Act (16 U.S.C 824 et seq.) is amended by adding at the end the following:

``SEC. 215. ELECTRIC RELIABILITY.

``(a) Definitions.--In this section:

``(1) (A) The term `bulk-power system' means--

``(i) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

``(ii) electric energy from generation facilities needed to maintain transmission system reliability.

``(B) The term `bulk-power system' does not include facilities used in the local distribution of electric energy.

``(2) The terms `Electric Reliability Organization' and `ERO' mean the organization certified by the Commission under subsection (c) the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

``(3) The term `interconnection' means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of 1 or more of such components may adversely affect the ability of the operators of

other components within the system to maintain reliable operation of the facilities within their control.

((4) The term `regional entity' means an entity having enforcement authority pursuant to subsection (e) (4).

((5) (A) The term `reliability standard' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system.

((B) The term `reliability standard' includes requirements for the operation of existing bulk-power system facilities and the design of planned additions or modifications to those facilities to the extent necessary to provide for reliable operation of the bulk-power system.

((C) The term `reliability standard' does not include any requirement to enlarge a facility described in subparagraph (B) or to construct new transmission capacity or generation capacity.

((6) The term `reliable operation' means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance or unanticipated failure of system elements.

((7) The term `transmission organization' means a regional transmission organization, independent system operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

((b) Jurisdiction and Applicability.--(1) (A) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section.

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

((2) Not later than 180 days after the date of enactment of this section, the Commission shall issue a final rule to implement this section.

((c) Certification.--(1) Following the issuance of a Commission rule under subsection (b) (2), any person may submit an application to the Commission for certification as the Electric Reliability Organization.

((2) The Commission may certify an ERO described in paragraph (1) if the Commission determines that the ERO--

((A) has the ability to develop and enforce, subject to subsection (e) (2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

((B) has established rules that--

((i) ensure the independence of the ERO from the users and owners and operators of the bulk-power system, while ensuring fair stakeholder representation in the selection of directors of the ERO and balanced decisionmaking in any ERO committee or subordinate organizational structure;

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

((iii) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

((iv) provide for reasonable notice and opportunity for public comment, due process, openness,

and balance of interests in developing reliability standards and otherwise exercising the duties of the ERO; and

``(v) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

``(d) Reliability Standards.--(1) The Electric Reliability Organization shall file each reliability standard or modification to a reliability standard that the Electric Reliability Organization proposes to be made effective under this section with the Commission.

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

``(B) The Commission--

``(i) shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an interconnection-wide basis with respect to a reliability standard to be applicable within that interconnection; but

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

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

``(3) The Electric Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

``(4) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

``(5) The Commission, upon a motion of the Commission or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

``(6) (A) The final rule adopted under subsection (b) (2) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization.

``(B) The transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule, or agreement as is accepted, approved, or ordered by the Commission until--

``(i) the Commission finds a conflict exists between a reliability standard and any such provision;

``(ii) the Commission orders a change to the provision pursuant to section 206; and

``(iii) the ordered change becomes effective under this part.

``(C) If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, the Commission shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5).

``(e) Enforcement.--(1) Subject to paragraph (2), the ERO may impose a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing--

``(A) finds that the user or owner or operator has violated

a reliability standard approved by the Commission under subsection (d); and

((B) files notice and the record of the proceeding with the Commission.

((2) (A) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the date on which the ERO files with the Commission notice of the penalty and the record of proceedings.

((B) The penalty shall be subject to review by the Commission upon--

((i) a motion by the Commission; or

((ii) application by the user, owner, or operator that is the subject of the penalty filed not later than 30 days after the date on which the notice is filed with the Commission.

((C) Application to the Commission for review, or the initiation of review by the Commission upon a motion of the Commission, shall not operate as a stay of the penalty unless the Commission orders otherwise upon a motion of the Commission or upon application by the user, owner, or operator that is the subject of the penalty.

((D) In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings.

((E) The Commission shall implement expedited procedures for hearings described in subparagraph (D).

((3) Upon a motion of the Commission or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any act or practice that constitutes or will constitute a violation of a reliability standard.

((4) (A) The Commission shall issue regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if--

((i) the regional entity is governed by an independent board, a balanced stakeholder board, or a combination of an independent and balanced stakeholder board;

((ii) the regional entity otherwise meets the requirements of paragraphs (1) and (2) of subsection (c); and

((iii) the agreement promotes effective and efficient administration of bulk-power system reliability.

((B) The Commission may modify a delegation under this paragraph.

((C) The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved.

((D) The regulations issued under this paragraph 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 this paragraph.

((5) The Commission may take such action as the Commission determines to be appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

((6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of the user, owner, or operator to remedy the violation in a timely manner.

((f) Changes in Electric Reliability Organization Rules.--(1) The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of the basis and purpose of the rule and proposed rule

change.

((2) The Commission, upon a motion of the Commission or upon complaint, may propose a change to the rules of the ERO.

((3) A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and meets the requirements of subsection (c).

((g) Reliability Reports.--The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

((h) Coordination With Canada and Mexico.--The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the ERO in the United States and Canada or Mexico.

((i) Savings Provisions.--(1) The ERO may develop and enforce compliance with reliability standards for only the bulk-power system.

((2) Nothing in this section authorizes the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

((3) Nothing in this section preempts any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard.

((4) Not later than 90 days after the date of application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

((5) The Commission, after consultation with the ERO and the State taking action, may stay the effectiveness of any State action, pending the issuance by the Commission of a final order.

((j) Regional Advisory Bodies.--(1) The Commission shall establish a regional advisory body on the petition of at least $\frac{2}{3}$ of the States within a region that have more than $\frac{1}{2}$ of the electric load of the States served within the region.

((2) A regional advisory body--

((A) shall be composed of 1 member from each participating State in the region, appointed by the Governor of the State; and

((B) may include representatives of agencies, States, and provinces outside the United States.

((3) A regional advisory body may provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding--

((A) the governance of an existing or proposed regional entity within the same region;

((B) whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest;

((C) whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest; and

((D) any other responsibilities requested by the Commission.

((4) The Commission may give deference to the advice of a regional advisory body if that body is organized on an interconnection-wide basis.

((k) Alaska and Hawaii.--This section does not apply to Alaska or Hawaii.''

(b) Status of ERO.--The Electric Reliability Organization certified by the Federal Energy Regulatory Commission under section 215(c) of the Federal Power Act (as added by subsection (a)) and any regional entity

delegated enforcement authority pursuant to section 215(e)(4) of that Act (as so added) are not departments, agencies, or instrumentalities of the United States Government.