

# **Appendix to Supporting Statement for ICR 1772.09: Information Collection Activities Associated with EPA's ENERGY STAR® Program in the Commercial and Industrial Sectors**

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In this appendix to the Supporting Statement, copies are attached of the relevant sections of statutes, regulations, or judicial/administrative decrees.

ENERGY STAR is authorized under section 103(g) of the Clean Air Act. The Energy Policy Act of 2005 further provides authorization to EPA and the U.S. Department of Energy (DOE) to establish a voluntary program to identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through voluntary certification of, or other forms of communication about, products and buildings that meet the highest energy conservation standards.

In 2015, Congress directed EPA to develop a recognition program for energy efficient tenant spaces under the ENERGY STAR program. See the Energy Efficiency Improvement Act of 2015 for more information (42 USC § 17085).

Under federal law, federal agencies may not lease space in any building that has not earned the ENERGY STAR in the most recent year. All federally owned buildings are also required to track and report their energy use through ENERGY STAR. See the Energy Independence and Security Act of 2007 (42 USC § 17091).

ENERGY STAR is a voluntary program aimed at preventing pollution rather than controlling it after its creation. Information is needed from organizations joining the program for identification purposes (e.g., contact information) and for establishing their partnership. ENERGY STAR online tools (e.g., Portfolio Manager) are needed for users to benchmark facility energy performance, assess energy management goals over time, and identify strategic opportunities for savings and recognition opportunities. Finally, information is needed from organizations seeking ENERGY STAR recognition so that EPA can evaluate and verify their accomplishments and share their lessons learned with the public.

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<sup>1</sup>The companion volume to this publication (volume 2) contains the Solid Waste Disposal Act, the Mercury-Containing and Rechargeable Battery Management Act, the Pollution Prevention Act of 1990, the Toxic Substances Control Act, section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, certain provisions of law related to asbestos, the Noise Control Act of 1972, the Safe Drinking Water Act, the Safe Drinking Water Act Amendments of 1996, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund), and the Superfund Amendments and Reauthorization Act of 1986 (SARA).

## THE CLEAN AIR ACT<sup>1</sup>

### TITLE I—AIR POLLUTION PREVENTION AND CONTROL

#### PART A—AIR QUALITY AND EMISSION LIMITATIONS

##### FINDINGS AND PURPOSES

SEC. 101. (a) The Congress finds—

(1) that the predominant part of the Nation's population is located in its rapidly expanding metropolitan and other urban areas, which generally cross the boundary lines of local jurisdictions and often extend into two or more States;

(2) that the growth in the amount and complexity of air pollution brought about by urbanization, industrial development, and the increasing use of motor vehicles, has resulted in mounting dangers to the public health and welfare, including injury to agricultural crops and livestock, damage to and the deterioration of property, and hazards to air and ground transportation;

(3) that air pollution prevention (that is, the reduction or elimination, through any measures, of the amount of pollutants produced or created at the source) and air pollution control at its source is the primary responsibility of States and local governments; and

(4) that Federal financial assistance and leadership is essential for the development of cooperative Federal, State, regional, and local programs to prevent and control air pollution.

(b) The purposes of this title are—

(1) to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population;

(2) to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution;

(3) to provide technical and financial assistance to State and local governments in connection with the development and execution of their air pollution prevention and control programs; and

(4) to encourage and assist the development and operation of regional air pollution prevention and control programs.

(c) POLLUTION PREVENTION.—A primary goal of this Act is to encourage or otherwise promote reasonable Federal, State, and local governmental actions, consistent with the provisions of this Act, for pollution prevention.

[42 U.S.C. 7401]

<sup>1</sup>The Clean Air Act (42 U.S.C. 7401–7626) consists of Public Law 159 (July 14, 1955; 69 Stat. 322) and the amendments made by subsequent enactments.

## COOPERATIVE ACTIVITIES AND UNIFORM LAWS

SEC. 102. (a) The Administrator shall encourage cooperative activities by the States and local governments for the prevention and control of air pollution; encourage the enactment of improved and, so far as practicable in the light of varying conditions and needs, uniform State and local laws relating to the prevention and control of air pollution; and encourage the making of agreements and compacts between States for the prevention and control of air pollution.

(b) The Administrator shall cooperate with and encourage cooperative activities by all Federal departments and agencies having functions relating to the prevention and control of air pollution, so as to assure the utilization in the Federal air pollution control program of all appropriate and available facilities and resources within the Federal Government.

(c) The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) cooperative effort and mutual assistance for the prevention and control of air pollution and the enforcement of their respective laws relating thereto, and (2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements or compacts. No such agreement or compact shall be binding or obligatory upon any State a party thereto unless and until it has been approved by Congress. It is the intent of Congress that no agreement or compact entered into between States after the date of enactment of the Air Quality Act of 1967, which relates to the control and abatement of air pollution in an air quality control region, shall provide for participation by a State which is not included (in whole or in part) in such air quality control region.

[42 U.S.C. 7402]

## RESEARCH, INVESTIGATION, TRAINING, AND OTHER ACTIVITIES

SEC. 103. (a) The Administrator shall establish a national research and development program for the prevention and control of air pollution and as part of such program shall—

(1) conduct, and promote the coordination and acceleration of, research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, effects (including health and welfare effects), extent, prevention, and control of air pollution;

(2) encourage, cooperate with, and render technical services and provide financial assistance to air pollution control agencies and other appropriate public or private agencies, institutions, and organizations, and individuals in the conduct of such activities;

(3) conduct investigations and research and make surveys concerning any specific problem of air pollution in cooperation with any air pollution control agency with a view to recommending a solution of such problem, if he is requested to do so by such agency or if, in his judgment, such problem may affect any community or communities in a State other than that in

which the source of the matter causing or contributing to the pollution is located;

(4) establish technical advisory committees composed of recognized experts in various aspects of air pollution to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research; and

(5) conduct and promote coordination and acceleration of training for individuals relating to the causes, effects, extent, prevention, and control of air pollution.

(b) In carrying out the provisions of the preceding subsection the Administrator is authorized to—

(1) collect and make available, through publications and other appropriate means, the results of and other information, including appropriate recommendations by him in connection therewith, pertaining to such research and other activities;

(2) cooperate with other Federal departments and agencies, with air pollution control agencies, with other public and private agencies, institutions, and organizations, and with any industries involved, in the preparation and conduct of such research and other activities;

(3) make grants to air pollution control agencies, to other public or nonprofit private agencies, institutions, and organizations, and to individuals, for purposes stated in subsection (a)(1) of this section;

(4) contract with public or private agencies, institutions, and organizations, and with individuals, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5);

(5) establish and maintain research fellowships, in the Environmental Protection Agency and at public or nonprofit private educational institutions or research organizations;

(6) collect and disseminate, in cooperation with other Federal departments and agencies, and with other public or private agencies, institutions, and organizations having related responsibilities, basic data on chemical, physical, and biological effects of varying air quality and other information pertaining to air pollution and the prevention and control thereof;

(7) develop effective and practical processes, methods, and prototype devices for the prevention or control of air pollution; and

(8)<sup>1</sup> construct facilities, provide equipment, and employ staff as necessary to carry out this Act.

In carrying out the provisions of subsection (a), the Administrator shall provide training for, and make training grants to, personnel of air pollution control agencies and other persons with suitable qualifications and make grants to such agencies, to other public or nonprofit private agencies, institutions, and organizations for the purposes stated in subsection (a)(5). Reasonable fees may be charged for such training provided to persons other than personnel of air pollution control agencies but such training shall be provided to such personnel of air pollution control agencies without charge.

<sup>1</sup>Section 901(a)(2)(C) of Public Law 101-549 (104 Stat. 2700) added a new paragraph (8) at the end of section 103(b). Paragraph (8) probably was intended to have been added after paragraph (7), as it is shown here.

(c) AIR POLLUTANT MONITORING, ANALYSIS, MODELING, AND INVENTORY RESEARCH.—In carrying out subsection (a), the Administrator shall conduct a program of research, testing, and development of methods for sampling, measurement, monitoring, analysis, and modeling of air pollutants. Such program shall include the following elements:

(1) Consideration of individual, as well as complex mixtures of, air pollutants and their chemical transformations in the atmosphere.

(2) Establishment of a national network to monitor, collect, and compile data with quantification of certainty in the status and trends of air emissions, deposition, air quality, surface water quality, forest condition, and visibility impairment, and to ensure the comparability of air quality data collected in different States and obtained from different nations.

(3) Development of improved methods and technologies for sampling, measurement, monitoring, analysis, and modeling to increase understanding of the sources of ozone precursors, ozone formation, ozone transport, regional influences on urban ozone, regional ozone trends, and interactions of ozone with other pollutants. Emphasis shall be placed on those techniques which—

(A) improve the ability to inventory emissions of volatile organic compounds and nitrogen oxides that contribute to urban air pollution, including anthropogenic and natural sources;

(B) improve the understanding of the mechanism through which anthropogenic and biogenic volatile organic compounds react to form ozone and other oxidants; and

(C) improve the ability to identify and evaluate region-specific prevention and control options for ozone pollution.

(4) Submission of periodic reports to the Congress, not less than once every 5 years, which evaluate and assess the effectiveness of air pollution control regulations and programs using monitoring and modeling data obtained pursuant to this subsection.

(d) ENVIRONMENTAL HEALTH EFFECTS RESEARCH.—(1) The Administrator, in consultation with the Secretary of Health and Human Services, shall conduct a research program on the short-term and long-term effects of air pollutants, including wood smoke, on human health. In conducting such research program the Administrator—

(A) shall conduct studies, including epidemiological, clinical, and laboratory and field studies, as necessary to identify and evaluate exposure to and effects of air pollutants on human health;

(B) may utilize, on a reimbursable basis, the facilities of existing Federal scientific laboratories and research centers; and

(C) shall consult with other Federal agencies to ensure that similar research being conducted in other agencies is coordinated to avoid duplication.

(2) In conducting the research program under this subsection, the Administrator shall develop methods and techniques necessary

to identify and assess the risks to human health from both routine and accidental exposures to individual air pollutants and combinations thereof. Such research program shall include the following elements:

(A) The creation of an Interagency Task Force to coordinate such program. The Task Force shall include representatives of the National Institute for Environmental Health Sciences, the Environmental Protection Agency, the Agency for Toxic Substances and Disease Registry, the National Toxicology Program, the National Institute of Standards and Technology, the National Science Foundation, the Surgeon General, and the Department of Energy. This Interagency Task Force shall be chaired by a representative of the Environmental Protection Agency and shall convene its first meeting within 60 days after the date of enactment of this subparagraph.

(B) An evaluation, within 12 months after the date of enactment of this paragraph, of each of the hazardous air pollutants listed under section 112(b) of this Act, to decide, on the basis of available information, their relative priority for preparation of environmental health assessments pursuant to subparagraph (C). The evaluation shall be based on reasonably anticipated toxicity to humans and exposure factors such as frequency of occurrence as an air pollutant and volume of emissions in populated areas. Such evaluation shall be reviewed by the Interagency Task Force established pursuant to subparagraph (A).

(C) Preparation of environmental health assessments for each of the hazardous air pollutants referred to in subparagraph (B), beginning 6 months after the first meeting of the Interagency Task Force and to be completed within 96 months thereafter. No fewer than 24 assessments shall be completed and published annually. The assessments shall be prepared in accordance with guidelines developed by the Administrator in consultation with the Interagency Task Force and the Science Advisory Board of the Environmental Protection Agency. Each such assessment shall include—

(i) an examination, summary, and evaluation of available toxicological and epidemiological information for the pollutant to ascertain the levels of human exposure which pose a significant threat to human health and the associated acute, subacute, and chronic adverse health effects;

(ii) a determination of gaps in available information related to human health effects and exposure levels; and

(iii) where appropriate, an identification of additional activities, including toxicological and inhalation testing, needed to identify the types or levels of exposure which may present significant risk of adverse health effects in humans.

(e) ECOSYSTEM RESEARCH.—In carrying out subsection (a), the Administrator, in cooperation, where appropriate, with the Under Secretary of Commerce for Oceans and Atmosphere, the Director of the Fish and Wildlife Service, and the Secretary of Agriculture, shall conduct a research program to improve understanding of the short-term and long-term causes, effects, and trends of ecosystems



damage from air pollutants on ecosystems. Such program shall include the following elements:

(1) Identification of regionally representative and critical ecosystems for research.

(2) Evaluation of risks to ecosystems exposed to air pollutants, including characterization of the causes and effects of chronic and episodic exposures to air pollutants and determination of the reversibility of those effects.

(3) Development of improved atmospheric dispersion models and monitoring systems and networks for evaluating and quantifying exposure to and effects of multiple environmental stresses associated with air pollution.

(4) Evaluation of the effects of air pollution on water quality, including assessments of the short-term and long-term ecological effects of acid deposition and other atmospherically derived pollutants on surface water (including wetlands and estuaries) and groundwater.

(5) Evaluation of the effects of air pollution on forests, materials, crops, biological diversity, soils, and other terrestrial and aquatic systems exposed to air pollutants.

(6) Estimation of the associated economic costs of ecological damage which have occurred as a result of exposure to air pollutants.

Consistent with the purpose of this program, the Administrator may use the estuarine research reserves established pursuant to section 315 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461) to carry out this research.

(f) LIQUEFIED GASEOUS FUELS SPILL TEST FACILITY.—(1) The Administrator, in consultation with the Secretary of Energy and the Federal Coordinating Council for Science, Engineering, and Technology, shall oversee an experimental and analytical research effort, with the experimental research to be carried out at the Liquefied Gaseous Fuels Spill Test Facility. In consultation with the Secretary of Energy, the Administrator shall develop a list of chemicals and a schedule for field testing at the Facility. Analysis of a minimum of 10 chemicals per year shall be carried out, with the selection of a minimum of 2 chemicals for field testing each year. Highest priority shall be given to those chemicals that would present the greatest potential risk to human health as a result of an accidental release—

(A) from a fixed site; or

(B) related to the transport of such chemicals.

(2) The purpose of such research shall be to—

(A) develop improved predictive models for atmospheric dispersion which at a minimum—

(i) describe dense gas releases in complex terrain including man-made structures or obstacles with variable winds;

(ii) improve understanding of the effects of turbulence on dispersion patterns; and

(iii) consider realistic behavior of aerosols by including physicochemical reactions with water vapor, ground deposition, and removal by water spray;

(B) evaluate existing and future atmospheric dispersion models by—

(i) the development of a rigorous, standardized methodology for dense gas models; and

(ii) the application of such methodology to current dense gas dispersion models using data generated from field experiments; and

(C) evaluate the effectiveness of hazard mitigation and emergency response technology for fixed site and transportation related accidental releases of toxic chemicals.

Models pertaining to accidental release shall be evaluated and improved periodically for their utility in planning and implementing evacuation procedures and other mitigative strategies designed to minimize human exposure to hazardous air pollutants released accidentally.

(3) The Secretary of Energy shall make available to interested persons (including other Federal agencies and businesses) the use of the Liquefied Gaseous Fuels Spill Test Facility to conduct research and other activities in connection with the activities described in this subsection.

(g) POLLUTION PREVENTION AND EMISSIONS CONTROL.—In carrying out subsection (a), the Administrator shall conduct a basic engineering research and technology program to develop, evaluate, and demonstrate nonregulatory strategies and technologies for air pollution prevention. Such strategies and technologies shall be developed with priority on those pollutants which pose a significant risk to human health and the environment, and with opportunities for participation by industry, public interest groups, scientists, and other interested persons in the development of such strategies and technologies. Such program shall include the following elements:

(1) Improvements in nonregulatory strategies and technologies for preventing or reducing multiple air pollutants, including sulfur oxides, nitrogen oxides, heavy metals, PM-10 (particulate matter), carbon monoxide, and carbon dioxide, from stationary sources, including fossil fuel power plants. Such strategies and technologies shall include improvements in the relative cost effectiveness and long-range implications of various air pollutant reduction and nonregulatory control strategies such as energy conservation, including end-use efficiency, and fuel-switching to cleaner fuels. Such strategies and technologies shall be considered for existing and new facilities.

(2) Improvements in nonregulatory strategies and technologies for reducing air emissions from area sources.

(3) Improvements in nonregulatory strategies and technologies for preventing, detecting, and correcting accidental releases of hazardous air pollutants.

(4) Improvements in nonregulatory strategies and technologies that dispose of tires in ways that avoid adverse air quality impacts.

Nothing in this subsection shall be construed to authorize the imposition on any person of air pollution control requirements. The Administrator shall consult with other appropriate Federal agencies to ensure coordination and to avoid duplication of activities authorized under this subsection.

(h) NIEHS STUDIES.—(1) The Director of the National Institute of Environmental Health Sciences may conduct a program of basic research to identify, characterize, and quantify risks to human health from air pollutants. Such research shall be conducted primarily through a combination of university and medical school-based grants, as well as through intramural studies and contracts.

(2) The Director of the National Institute of Environmental Health Sciences shall conduct a program for the education and training of physicians in environmental health.

(3) The Director shall assure that such programs shall not conflict with research undertaken by the Administrator.

(4) There are authorized to be appropriated to the National Institute of Environmental Health Sciences such sums as may be necessary to carry out the purposes of this subsection.

(i) COORDINATION OF RESEARCH.—The Administrator shall develop and implement a plan for identifying areas in which activities authorized under this section can be carried out in conjunction with other Federal ecological and air pollution research efforts. The plan, which shall be submitted to Congress within 6 months after the date of enactment of this subsection, shall include—

(1) an assessment of ambient monitoring stations and networks to determine cost effective ways to expand monitoring capabilities in both urban and rural environments;

(2) a consideration of the extent of the feasibility and scientific value of conducting the research program under subsection (e) to include consideration of the effects of atmospheric processes and air pollution effects; and

(3) a methodology for evaluating and ranking pollution prevention technologies, such as those developed under subsection (g), in terms of their ability to reduce cost effectively the emissions of air pollutants and other airborne chemicals of concern.

Not later than 2 years after the date of enactment of this subsection, and every 4 years thereafter, the Administrator shall report to Congress on the progress made in implementing the plan developed under this subsection, and shall include in such report any revisions of the plan.

(j) CONTINUATION OF THE NATIONAL ACID PRECIPITATION ASSESSMENT PROGRAM.—

(1) The acid precipitation research program set forth in the Acid Precipitation Act of 1980 shall be continued with modifications pursuant to this subsection.

(2) The Acid Precipitation Task Force shall consist of the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of the Interior, the Secretary of Agriculture, the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the National Aeronautics and Space Administration, and such additional members as the President may select. The President shall appoint a chairman for the Task Force from among its members within 30 days after the date of enactment of this subsection.

(3) The responsibilities of the Task Force shall include the following:

(A) Review of the status of research activities conducted to date under the comprehensive research plan developed pursuant to the Acid Precipitation Act of 1980, and development of a revised plan that identifies significant research gaps and establishes a coordinated program to address current and future research priorities. A draft of the revised plan shall be submitted by the Task Force to Congress within 6 months after the date of enactment of this subsection. The plan shall be available for public comment during the 60 day period after its submission, and a final plan shall be submitted by the President to the Congress within 45 days after the close of the comment period.

(B) Coordination with participating Federal agencies, augmenting the agencies' research and monitoring efforts and sponsoring additional research in the scientific community as necessary to ensure the availability and quality of data and methodologies needed to evaluate the status and effectiveness of the acid deposition control program. Such research and monitoring efforts shall include, but not be limited to—

(i) continuous monitoring of emissions of precursors of acid deposition;

(ii) maintenance, upgrading, and application of models, such as the Regional Acid Deposition Model, that describe the interactions of emissions with the atmosphere, and models that describe the response of ecosystems to acid deposition; and

(iii) analysis of the costs, benefits, and effectiveness of the acid deposition control program.

(C) Publication and maintenance of a National Acid Lakes Registry that tracks the condition and change over time of a statistically representative sample of lakes in regions that are known to be sensitive to surface water acidification.

(D) Submission every two years of a unified budget recommendation to the President for activities of the Federal Government in connection with the research program described in this subsection.

(E) Beginning in 1992 and biennially thereafter, submission of a report to Congress describing the results of its investigations and analyses. The reporting of technical information about acid deposition shall be provided in a format that facilitates communication with policymakers and the public. The report shall include—

(i) actual and projected emissions and acid deposition trends;

(ii) average ambient concentrations of acid deposition precursors<sup>1</sup> and their transformation products;

(iii) the status of ecosystems (including forests and surface waters), materials, and visibility affected by acid deposition;

<sup>1</sup> Probably should be "precursors".

(iv) the causes and effects of such deposition, including changes in surface water quality and forest and soil conditions;

(v) the occurrence and effects of episodic acidification, particularly with respect to high elevation watersheds; and

(vi) the confidence level associated with each conclusion to aid policymakers in use of the information.

(F) Beginning in 1996, and every 4 years thereafter, the report under subparagraph (E) shall include—

(i) the reduction in deposition rates that must be achieved in order to prevent adverse ecological effects; and

(ii) the costs and benefits of the acid deposition control program created by title IV of this Act.

(k) AIR POLLUTION CONFERENCES.—If, in the judgment of the Administrator, an air pollution problem of substantial significance may result from discharge or discharges into the atmosphere, the Administrator may call a conference concerning this potential air pollution problem to be held in or near one or more of the places where such discharge or discharges are occurring or will occur. All interested persons shall be given an opportunity to be heard at such conference, either orally or in writing, and shall be permitted to appear in person or by representative in accordance with procedures prescribed by the Administrator. If the Administrator finds, on the basis of the evidence presented at such conference, that the discharge or discharges if permitted to take place or continue are likely to cause or contribute to air pollution subject to abatement under part A of title I, the Administrator shall send such findings, together with recommendations concerning the measures which the Administrator finds reasonable and suitable to prevent such pollution, to the person or persons whose actions will result in the discharge or discharges involved; to air pollution agencies of the State or States and of the municipality or municipalities where such discharge or discharges will originate; and to the interstate air pollution control agency, if any, in the jurisdictional area of which any such municipality is located. Such findings and recommendations shall be advisory only, but shall be admitted together with the record of the conference, as part of the proceedings under subsections (b), (c), (d), (e), and (f) of section 108.

[42 U.S.C. 7403]

#### RESEARCH RELATING TO FUELS AND VEHICLES

SEC. 104. (a) The Administrator shall give special emphasis to research and development into new and improved methods, having industrywide application, for the prevention and control of air pollution resulting from the combustion of fuels. In furtherance of such research and development he shall—

(1) conduct and accelerate research programs directed toward development of improved, cost-effective techniques for—

(A) control of combustion byproducts of fuels,

(B) removal of potential air pollutants from fuels prior to combustion,

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(1) in paragraph (1), by inserting before the period at the end of the first sentence the following: “, including increasing and verifying compliance with such codes”; and

(2) by striking paragraph (2) and inserting the following: “(2) Additional funding shall be provided under this subsection for implementation of a plan to achieve and document at least a 90 percent rate of compliance with residential and commercial building energy efficiency codes, based on energy performance—

“(A) to a State that has adopted and is implementing, on a statewide basis—

“(i) a residential building energy efficiency code that meets or exceeds the requirements of the 2004 International Energy Conservation Code, or any succeeding version of that code that has received an affirmative determination from the Secretary under subsection (a)(5)(A); and

“(ii) a commercial building energy efficiency code that meets or exceeds the requirements of the ASHRAE Standard 90.1–2004, or any succeeding version of that standard that has received an affirmative determination from the Secretary under subsection (b)(2)(A); or

“(B) in a State in which there is no statewide energy code either for residential buildings or for commercial buildings, to a local government that has adopted and is implementing residential and commercial building energy efficiency codes, as described in subparagraph (A).

“(3) Of the amounts made available under this subsection, the Secretary may use \$500,000 for each fiscal year to train State and local officials to implement codes described in paragraph (2).

“(4)(A) There are authorized to be appropriated to carry out this subsection—

“(i) \$25,000,000 for each of fiscal years 2006 through 2010;

and

“(ii) such sums as are necessary for fiscal year 2011 and each fiscal year thereafter.

“(B) Funding provided to States under paragraph (2) for each fiscal year shall not exceed one-half of the excess of funding under this subsection over \$5,000,000 for the fiscal year.”.

Appropriation  
authorization.

## Subtitle C—Energy Efficient Products

### SEC. 131. ENERGY STAR PROGRAM.

(a) IN GENERAL.—The Energy Policy and Conservation Act is amended by inserting after section 324 (42 U.S.C. 6294) the following:

#### “ENERGY STAR PROGRAM

42 USC 6294a.

“SEC. 324A. (a) IN GENERAL.—There is established within the Department of Energy and the Environmental Protection Agency a voluntary program to identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through voluntary labeling of, or other forms of communication about, products and buildings that meet the highest energy conservation standards.

“(b) DIVISION OF RESPONSIBILITIES.—Responsibilities under the program shall be divided between the Department of Energy and

the Environmental Protection Agency in accordance with the terms of applicable agreements between those agencies.

“(c) DUTIES.—The Administrator and the Secretary shall—

“(1) promote Energy Star compliant technologies as the preferred technologies in the marketplace for—

“(A) achieving energy efficiency; and

“(B) reducing pollution;

“(2) work to enhance public awareness of the Energy Star label, including by providing special outreach to small businesses;

“(3) preserve the integrity of the Energy Star label;

“(4) regularly update Energy Star product criteria for product categories;

“(5) solicit comments from interested parties prior to establishing or revising an Energy Star product category, specification, or criterion (or prior to effective dates for any such product category, specification, or criterion);

“(6) on adoption of a new or revised product category, specification, or criterion, provide reasonable notice to interested parties of any changes (including effective dates) in product categories, specifications, or criteria, along with—

“(A) an explanation of the changes; and

“(B) as appropriate, responses to comments submitted by interested parties; and

“(7) provide appropriate lead time (which shall be 270 days, unless the Agency or Department specifies otherwise) prior to the applicable effective date for a new or a significant revision to a product category, specification, or criterion, taking into account the timing requirements of the manufacturing, product marketing, and distribution process for the specific product addressed.

“(d) DEADLINES.—The Secretary shall establish new qualifying levels—

“(1) not later than January 1, 2006, for clothes washers and dishwashers, effective beginning January 1, 2007; and

“(2) not later than January 1, 2008, for clothes washers, effective beginning January 1, 2010.”.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy and Conservation Act (42 U.S.C. prec. 6201) is amended by inserting after the item relating to section 324 the following:

“Sec. 324A. Energy Star program.”.

**SEC. 132. HVAC MAINTENANCE CONSUMER EDUCATION PROGRAM.**

Section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6307) is amended by adding at the end the following:

“(c) HVAC MAINTENANCE.—(1) To ensure that installed air conditioning and heating systems operate at maximum rated efficiency levels, the Secretary shall, not later than 180 days after the date of enactment of this subsection, carry out a program to educate homeowners and small business owners concerning the energy savings from properly conducted maintenance of air conditioning, heating, and ventilating systems.

“(2) The Secretary shall carry out the program under paragraph (1), on a cost-shared basis, in cooperation with the Administrator of the Environmental Protection Agency and any other entities that the Secretary determines to be appropriate, including industry

Deadline.



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retary of Energy Efficiency and Renewable Energy, shall complete a study on the feasibility of—

(A) significantly improving energy efficiency in commercial buildings through the design and construction, by owners and tenants, of separate spaces with high-performance energy efficiency measures; and

(B) encouraging owners and tenants to implement high-performance energy efficiency measures in separate spaces.

**(2) Scope**

The study shall, at a minimum, include—

(A) descriptions of—

(i) high-performance energy efficiency measures that should be considered as part of the initial design and construction of separate spaces;

(ii) processes that owners, tenants, architects, and engineers may replicate when designing and constructing separate spaces with high-performance energy efficiency measures;

(iii) policies and best practices to achieve reductions in energy intensities for lighting, plug loads, heating, cooling, cooking, laundry, and other systems to satisfy the needs of the commercial building tenant;

(iv) return on investment and payback analyses of the incremental cost and projected energy savings of the proposed set of high-performance energy efficiency measures, including consideration of available incentives;

(v) models and simulation methods that predict the quantity of energy used by separate spaces with high-performance energy efficiency measures and that compare that predicted quantity to the quantity of energy used by separate spaces without high-performance energy efficiency measures but that otherwise comply with applicable building code requirements;

(vi) measurement and verification platforms demonstrating actual energy use of high-performance energy efficiency measures installed in separate spaces, and whether such measures generate the savings intended in the initial design and construction of the separate spaces;

(vii) best practices that encourage an integrated approach to designing and constructing separate spaces to perform at optimum energy efficiency in conjunction with the central systems of a commercial building; and

(viii) any impact on employment resulting from the design and construction of separate spaces with high-performance energy efficiency measures; and

(B) case studies reporting economic and energy savings returns in the design and construction of separate spaces with high-performance energy efficiency measures.

**(3) Public participation**

Not later than 90 days after April 30, 2015, the Secretary shall publish a notice in the Federal Register requesting public comments

regarding effective methods, measures, and practices for the design and construction of separate spaces with high-performance energy efficiency measures.

**(4) Publication**

The Secretary shall publish the study on the website of the Department of Energy.

(Pub. L. 110–140, title IV, § 424, as added Pub. L. 114–11, title I, § 103(a), Apr. 30, 2015, 129 Stat. 183.)

**§ 17085. Tenant Star program**

**(a) Definitions**

In this section:

**(1) High-performance energy efficiency measure**

The term “high-performance energy efficiency measure” has the meaning given the term in section 17084 of this title.

**(2) Separate spaces**

The term “separate spaces” has the meaning given the term in section 17084 of this title.

**(b) Tenant Star**

The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy, shall develop a voluntary program within the Energy Star program established by section 6294a of this title, which may be known as “Tenant Star”, to promote energy efficiency in separate spaces leased by tenants or otherwise occupied within commercial buildings.

**(c) Expanding survey data**

The Secretary of Energy, acting through the Administrator of the Energy Information Administration, shall—

(1) collect, through each Commercial Buildings Energy Consumption Survey of the Energy Information Administration that is conducted after April 30, 2015, data on—

(A) categories of building occupancy that are known to consume significant quantities of energy, such as occupancy by data centers, trading floors, and restaurants; and

(B) other aspects of the property, building operation, or building occupancy determined by the Administrator of the Energy Information Administration, in consultation with the Administrator of the Environmental Protection Agency, to be relevant in lowering energy consumption;

(2) with respect to the first Commercial Buildings Energy Consumption Survey conducted after April 30, 2015, to the extent full compliance with the requirements of paragraph (1) is not feasible, conduct activities to develop the capability to collect such data and begin to collect such data; and

(3) make data collected under paragraphs (1) and (2) available to the public in aggregated form and provide such data, and any associated results, to the Administrator of the Environmental Protection Agency for use in accordance with subsection (d).

**(d) Recognition of owners and tenants**

**(1) Occupancy-based recognition**

Not later than 1 year after the date on which sufficient data is received pursuant to sub-

section (c), the Administrator of the Environmental Protection Agency shall, following an opportunity for public notice and comment—

(A) in a manner similar to the Energy Star rating system for commercial buildings, develop policies and procedures to recognize tenants in commercial buildings that voluntarily achieve high levels of energy efficiency in separate spaces;

(B) establish building occupancy categories eligible for Tenant Star recognition based on the data collected under subsection (c) and any other appropriate data sources; and

(C) consider other forms of recognition for commercial building tenants or other occupants that lower energy consumption in separate spaces.

**(2) Design- and construction-based recognition**

After the study required by section 17084(b) of this title is completed, the Administrator of the Environmental Protection Agency, in consultation with the Secretary and following an opportunity for public notice and comment, may develop a voluntary program to recognize commercial building owners and tenants that use high-performance energy efficiency measures in the design and construction of separate spaces.

(Pub. L. 110–140, title IV, § 425, as added Pub. L. 114–11, title I, § 104(a), Apr. 30, 2015, 129 Stat. 185.)

PART C—HIGH-PERFORMANCE FEDERAL BUILDINGS

**§ 17091. Leasing**

**(a) In general**

Except as provided in subsection (b), effective beginning on the date that is 3 years after December 19, 2007, no Federal agency shall enter into a contract to lease space in a building that has not earned the Energy Star label in the most recent year.

**(b) Exception**

**(1) Application**

This subsection applies if—

(A) no space is available in a building described in subsection (a) that meets the functional requirements of an agency, including locational needs;

(B) the agency proposes to remain in a building that the agency has occupied previously;

(C) the agency proposes to lease a building of historical, architectural, or cultural significance (as defined in section 3306(a)(4) of title 40) or space in such a building; or

(D) the lease is for not more than 10,000 gross square feet of space.

**(2) Buildings without Energy Star label**

If one of the conditions described in paragraph (1) is met, the agency may enter into a contract to lease space in a building that has not earned the Energy Star label in the most recent year if the lease contract includes provisions requiring that, prior to occupancy or, in the case of a contract described in paragraph (1)(B), not later than 1 year after sign-

ing the contract, the following requirements are met:

(A) The space is renovated for all energy efficiency and conservation improvements that would be cost effective over the life of the lease, including improvements in lighting, windows, and heating, ventilation, and air conditioning systems.

(B)(i) Subject to clause (ii), the space is benchmarked under a nationally recognized, online, free benchmarking program, with public disclosure, unless the space is a space for which owners cannot access whole building utility consumption data, including spaces—

(I) that are located in States with privacy laws that provide that utilities shall not provide such aggregated information to multitenant building owners; and

(II) for which tenants do not provide energy consumption information to the commercial building owner in response to a request from the building owner.

(ii) A Federal agency that is a tenant of the space shall provide to the building owner, or authorize the owner to obtain from the utility, the energy consumption information of the space for the benchmarking and disclosure required by this subparagraph.

**(c) Revision of Federal Acquisition Regulation**

**(1) In general**

Not later than 3 years after December 19, 2007, the Federal Acquisition Regulation described in section 1121(b) and (c)(1) of title 41 shall be revised to require Federal officers and employees to comply with this section in leasing buildings.

**(2) Consultation**

The members of the Federal Acquisition Regulatory Council established under section 1302(a) of title 41 shall consult with the Federal Director and the Commercial Director before promulgating regulations to carry out this subsection.

(Pub. L. 110–140, title IV, § 435, Dec. 19, 2007, 121 Stat. 1615; Pub. L. 114–11, title III, § 301(a), Apr. 30, 2015, 129 Stat. 189.)

CODIFICATION

In subsec. (c)(1), “section 1121(b) and (c)(1) of title 41” substituted for “section 6(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(a))” on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (c)(2), “section 1302(a) of title 41” substituted for “section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421)” on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2015—Subsec. (b)(2). Pub. L. 114–11 substituted “paragraph (1) is met” for “paragraph (2) is met” and “signing the contract, the following requirements are met:” for “signing the contract, the space will be renovated for all energy efficiency and conservation improvements that would be cost effective over the life of the lease, including improvements in lighting, windows, and heating, ventilation, and air conditioning systems.” and added subpars. (A) and (B).

**Title 42—THE PUBLIC HEALTH AND WELFARE**

(/us/code/title42/the-public-health-and-welfare)

:

**Chapter 150—NATIONAL AERONAUTICS AND SPACE PROGRAMS, 2005**

(/us/code/title42/national-aeronautics-and-space-programs-2005)

**Chapter 151—CHILD PROTECTION AND SAFETY**

(/us/code/title42/child-protection-and-safety)

**Chapter 152—ENERGY INDEPENDENCE AND SECURITY**

(/us/code/title42/energy-independence-and-security)

:

**Subchapter I—IMPROVED VEHICLE TECHNOLOGY**

(/us/code/title42/improved-vehicle-technology)

**Subchapter II—ENERGY SECURITY THROUGH INCREASED PRODUCTION OF BIOFUELS**

(/us/code/title42/energy-security-through-increased-production-of-biofuels)

**Subchapter III—ENERGY SAVINGS IN BUILDINGS AND INDUSTRY**

(/us/code/title42/energy-savings-in-buildings-and-industry)

:

**Part A—Residential Building Efficiency**

(/us/code/title42/residential-building-efficiency)

**Part B—High-Performance Commercial Buildings**

(/us/code/title42/high-performance-commercial-buildings)

**Part C—High-Performance Federal Buildings**

(/us/code/title42/high-performance-federal-buildings)

**Section 17091—Leasing**

(/us/code/title42/leasing1)  
**Section 17092**—High-performance green Federal buildings  
(/us/code/title42/high-performance-green-federal-buildings)

**Section 17093**—Federal green building performance  
(/us/code/title42/federal-green-building-performance)

**Section 17094**—Storm water runoff requirements for Federal development projects  
(/us/code/title42/storm-water-runoff-requirements-for-federal-development-projects)

**Section 17095**—Cost-effective technology acceleration program

## §17091. Leasing


### (a) In general

Except as provided in subsection (b), effective beginning on the date that is 3 years after December 19, 2007, no Federal agency shall enter into a contract to lease space in a building that has not earned the Energy Star label in the most recent year.

### (b) Exception

#### (1) Application

This subsection applies if—

- (A) no space is available in a building described in subsection (a) that meets the functional requirements of an agency, including locational needs;
- (B) the agency proposes to remain in a building that the agency has occupied previously;
- (C) the agency proposes to lease a building of historical, architectural, or cultural significance (as defined in [section 3306\(a\)\(4\) of title 40](#) ) or space in such a building; or
- (D) the lease is for not more than 10,000 gross square feet of space.

#### (2) Buildings without Energy Star label

If one of the conditions described in paragraph (2) is met, the agency may enter into a contract to lease space in a building that has not earned the Energy Star label in the most recent year if the lease contract includes provisions requiring that, prior to occupancy or, in the case of a contract described in paragraph (1)(B), not later than 1 year after signing the contract, the space will be renovated for all energy efficiency and conservation improvements that would be cost effective over the life of the lease, including improvements in lighting, windows, and heating, ventilation, and air conditioning systems.

### (c) Revision of Federal Acquisition Regulation

#### (1) In general

Not later than 3 years after December 19, 2007, the Federal Acquisition Regulation described in this section in leasing buildings.

#### (2) Consultation

The members of the Federal Acquisition Regulatory Council established under this subsection.

(Pub. L. 110–140, title IV, §435, Dec. 19, 2007, 121 Stat. 1615.)

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