

AMENDMENT NO. _____ Calendar No. _____

Purpose: To improve the bill.

IN THE SENATE OF THE UNITED STATES—112th Cong., 2d Sess.

H. R. 4850

To allow for innovations and alternative technologies that
meet or exceed desired energy efficiency goals.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by _____

Viz:

1 At the end of the bill, add the following:

2 **SEC. 3. UNIFORM EFFICIENCY DESCRIPTOR FOR COVERED**
3 **WATER HEATERS.**

4 Section 325(e) of the Energy Policy and Conservation
5 Act (42 U.S.C. 6295(e)) is amended by adding at the end
6 the following:

7 “(5) UNIFORM EFFICIENCY DESCRIPTOR FOR
8 COVERED WATER HEATERS.—

9 “(A) DEFINITIONS.—In this paragraph:

10 “(i) COVERED WATER HEATER.—The
11 term ‘covered water heater’ means—

12 “(I) a water heater; and

2

1 “(II) a storage water heater, in-
2 stantaneous water heater, and unfired
3 water storage tank (as defined in sec-
4 tion 340).

5 “(ii) FINAL RULE.—The term ‘final
6 rule’ means the final rule published under
7 this paragraph.

8 “(B) PUBLICATION OF FINAL RULE.—Not
9 later than 180 days after the date of enactment
10 of this paragraph, the Secretary shall publish a
11 final rule that establishes a uniform efficiency
12 descriptor and accompanying test methods for
13 covered water heaters.

14 “(C) PURPOSE.—The purpose of the final
15 rule shall be to replace with a uniform effi-
16 ciency descriptor—

17 “(i) the energy factor descriptor for
18 water heaters established under this sub-
19 section; and

20 “(ii) the thermal efficiency and stand-
21 by loss descriptors for storage water heat-
22 ers, instantaneous water heaters, and
23 unfired water storage tanks established
24 under section 342(a)(5).

25 “(D) EFFECT OF FINAL RULE.—

1 “(i) IN GENERAL.—Notwithstanding
2 any other provision of this title, effective
3 beginning on the effective date of the final
4 rule, the efficiency standard for covered
5 water heaters shall be denominated accord-
6 ing to the efficiency descriptor established
7 by the final rule.

8 “(ii) EFFECTIVE DATE.—The final
9 rule shall take effect 1 year after the date
10 of publication of the final rule under sub-
11 paragraph (B).

12 “(E) CONVERSION FACTOR.—

13 “(i) IN GENERAL.—The Secretary
14 shall develop a mathematical conversion
15 factor for converting the measurement of
16 efficiency for covered water heaters from
17 the test procedures in effect on the date of
18 enactment of this paragraph to the new
19 energy descriptor established under the
20 final rule.

21 “(ii) APPLICATION.—The conversion
22 factor shall apply to models of covered
23 water heaters affected by the final rule and
24 tested prior to the effective date of the
25 final rule.

1 “(iii) EFFECT ON EFFICIENCY RE-
2 QUIREMENTS.—The conversion factor shall
3 not affect the minimum efficiency require-
4 ments for covered water heaters otherwise
5 established under this title.

6 “(iv) USE.—During the period de-
7 scribed in clause (v), a manufacturer may
8 apply the conversion factor established by
9 the Secretary to rerate existing models of
10 covered water heaters that are in existence
11 prior to the effective date of the rule de-
12 scribed in clause (v)(II) to comply with the
13 new efficiency descriptor.

14 “(v) PERIOD.—Subclause (E) shall
15 apply during the period—

16 “(I) beginning on the date of
17 publication of the conversion factor in
18 the Federal Register; and

19 “(II) ending on April 16, 2015.

20 “(F) EXCLUSIONS.—The final rule may
21 exclude a specific category of covered water
22 heaters from the uniform efficiency descriptor
23 established under this paragraph if the Sec-
24 retary determines that the category of water
25 heaters—

1 “(i) does not have a residential use
2 and can be clearly described in the final
3 rule; and

4 “(ii) are effectively rated using the
5 thermal efficiency and standby loss
6 descriptors applied (as of the date of en-
7 actment of this paragraph) to the category
8 under section 342(a)(5).

9 “(G) OPTIONS.—The descriptor set by the
10 final rule may be—

11 “(i) a revised version of the energy
12 factor descriptor in use as of the date of
13 enactment of this paragraph;

14 “(ii) the thermal efficiency and stand-
15 by loss descriptors in use as of that date;

16 “(iii) a revised version of the thermal
17 efficiency and standby loss descriptors;

18 “(iv) a hybrid of descriptors; or

19 “(v) a new approach.

20 “(H) APPLICATION.—The efficiency
21 descriptor and accompanying test method estab-
22 lished under the final rule shall apply, to the
23 maximum extent practicable, to all water heat-
24 ing technologies in use as of the date of enact-

1 ment of this paragraph and to future water
2 heating technologies.

3 “(I) PARTICIPATION.—The Secretary shall
4 invite interested stakeholders to participate in
5 the rulemaking process used to establish the
6 final rule.

7 “(J) TESTING OF ALTERNATIVE
8 DESCRIPTORS.—In establishing the final rule,
9 the Secretary shall contract with the National
10 Institute of Standards and Technology, as nec-
11 essary, to conduct testing and simulation of al-
12 ternative descriptors identified for consider-
13 ation.

14 “(K) EXISTING COVERED WATER HEAT-
15 ERS.—A covered water heater shall be consid-
16 ered to comply with the final rule on and after
17 the effective date of the final rule and with any
18 revised labeling requirements established by the
19 Federal Trade Commission to carry out the
20 final rule if the covered water heater—

21 “(i) was manufactured prior to the ef-
22 fective date of the final rule; and

23 “(ii) complied with the efficiency
24 standards and labeling requirements in ef-
25 fect prior to the final rule.”.

1 **SEC. 4. SERVICE OVER THE COUNTER, SELF-CONTAINED,**
2 **MEDIUM TEMPERATURE COMMERCIAL RE-**
3 **FRIGERATORS.**

4 Section 342(c) of the Energy Policy and Conservation
5 Act (42 U.S.C. 6313(c)) is amended—

6 (1) in paragraph (1)—

7 (A) by redesignating subparagraph (C) as
8 subparagraph (E); and

9 (B) by inserting after subparagraph (B)
10 the following:

11 “(C) The term ‘service over the counter,
12 self-contained, medium temperature commercial
13 refrigerator’ or ‘(SOC–SC–M)’ means a me-
14 dium temperature commercial refrigerator—

15 “(i) with a self-contained condensing
16 unit and equipped with sliding or hinged
17 doors in the back intended for use by sales
18 personnel, and with glass or other trans-
19 parent material in the front for displaying
20 merchandise; and

21 “(ii) that has a height not greater
22 than 66 inches and is intended to serve as
23 a counter for transactions between sales
24 personnel and customers.

1 “(D) The term ‘TDA’ means the total dis-
2 play area (ft²) of the refrigerated case, as de-
3 fined in AHRI Standard 1200.”;

4 (2) by redesignating paragraphs (4) and (5) as
5 paragraphs (5) and (6), respectively; and

6 (3) by inserting after paragraph (3) the fol-
7 lowing:

8 “(4) Each SOC–SC–M manufactured on or
9 after January 1, 2012, shall have a total daily en-
10 ergy consumption (in kilowatt hours per day) of not
11 more than $0.6 \times \text{TDA} + 1.0$.”.

12 **SEC. 5. SMALL DUCT HIGH VELOCITY SYSTEMS AND ADMIN-**
13 **ISTRATIVE CHANGES.**

14 (a) THROUGH-THE-WALL CENTRAL AIR CONDI-
15 TIONERS, THROUGH-THE-WALL CENTRAL AIR CONDI-
16 TIONING HEAT PUMPS, AND SMALL DUCT, HIGH VELOC-
17 ITY SYSTEMS.—Section 325(d) of the Energy Policy and
18 Conservation Act (42 U.S.C. 6295(d)) is amended by add-
19 ing at the end the following:

20 “(4) STANDARDS FOR THROUGH-THE-WALL
21 CENTRAL AIR CONDITIONERS, THROUGH-THE-WALL
22 CENTRAL AIR CONDITIONING HEAT PUMPS, AND
23 SMALL DUCT, HIGH VELOCITY SYSTEMS.—

24 “(A) DEFINITIONS.—In this paragraph:

1 “(i) SMALL DUCT, HIGH VELOCITY
2 SYSTEM.—The term ‘small duct, high ve-
3 locity system’ means a heating and cooling
4 product that contains a blower and indoor
5 coil combination that—

6 “(I) is designed for, and pro-
7 duces, at least 1.2 inches of external
8 static pressure when operated at the
9 certified air volume rate of 220–350
10 CFM per rated ton of cooling; and

11 “(II) when applied in the field,
12 uses high velocity room outlets gen-
13 erally greater than 1,000 fpm that
14 have less than 6.0 square inches of
15 free area.

16 “(ii) THROUGH-THE-WALL CENTRAL
17 AIR CONDITIONER; THROUGH-THE-WALL
18 CENTRAL AIR CONDITIONING HEAT
19 PUMP.—The terms ‘through-the-wall cen-
20 tral air conditioner’ and ‘through-the-wall
21 central air conditioning heat pump’ mean a
22 central air conditioner or heat pump, re-
23 spectively, that is designed to be installed
24 totally or partially within a fixed-size open-
25 ing in an exterior wall, and—

10

1 “(I) is not weatherized;

2 “(II) is clearly and permanently
3 marked for installation only through
4 an exterior wall;

5 “(III) has a rated cooling capac-
6 ity no greater than 30,000 Btu/hr;

7 “(IV) exchanges all of its outdoor
8 air across a single surface of the
9 equipment cabinet; and

10 “(V) has a combined outdoor air
11 exchange area of less than 800 square
12 inches (split systems) or less than
13 1,210 square inches (single packaged
14 systems) as measured on the surface
15 area described in subclause (IV).

16 “(iii) REVISION.—The Secretary may
17 revise the definitions contained in this sub-
18 paragraph through publication of a final
19 rule.

20 “(B) SMALL-DUCT HIGH-VELOCITY SYS-
21 TEMS.—

22 “(i) SEASONAL ENERGY EFFICIENCY
23 RATIO.—The seasonal energy efficiency
24 ratio for small-duct high-velocity systems
25 shall be not less than—

11

1 “(I) 11.00 for products manufac-
2 tured on or after January 23, 2006;
3 and

4 “(II) 12.00 for products manu-
5 factured on or after January 1, 2015.

6 “(ii) HEATING SEASONAL PERFORM-
7 ANCE FACTOR.—The heating seasonal per-
8 formance factor for small-duct high-veloc-
9 ity systems shall be not less than—

10 “(I) 6.8 for products manufac-
11 tured on or after January 23, 2006;
12 and

13 “(II) 7.2 for products manufac-
14 tured on or after January 1, 2015.

15 “(C) SUBSEQUENT RULEMAKINGS.—The
16 Secretary shall conduct subsequent rulemakings
17 for through-the-wall central air conditioners,
18 through-the-wall central air conditioning heat
19 pumps, and small duct, high velocity systems as
20 part of any rulemaking under this section used
21 to review or revise standards for other central
22 air conditioners and heat pumps.”.

23 (b) DUTY TO REVIEW COMMERCIAL EQUIPMENT.—
24 Section 342(a)(6) of the Energy Policy and Conservation
25 Act (42 U.S.C. 6313(a)(6)) is amended—

1 (1) in subparagraph (A)(i), by inserting “the
2 standard levels or design requirements applicable
3 under that standard to” immediately before “any
4 small commercial”; and

5 (2) in subparagraph (C)—

6 (A) in clause (i)—

7 (i) by striking “Not later than 6 years
8 after issuance of any final rule establishing
9 or amending a standard, as required for a
10 product under this part,” and inserting
11 “Every 6 years,”; and

12 (ii) by inserting after “the Secretary
13 shall” the following: “conduct an evalua-
14 tion of each class of covered equipment
15 and shall”; and

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

17 “(vi) For any covered equipment as to
18 which more than 6 years has elapsed since
19 the issuance of the most recent final rule
20 establishing or amending a standard for
21 the product as of the date of enactment of
22 this clause, the first notice required under
23 clause (i) shall be published by December
24 31, 2013.”.

1 (c) PETITION FOR AMENDED STANDARDS.—Section
2 325(n) of the Energy Policy and Conservation Act (42
3 U.S.C. 6295(n)) is amended—

4 (1) by redesignating paragraph (3) as para-
5 graph (5); and

6 (2) by inserting after paragraph (2) the fol-
7 lowing:

8 “(3) NOTICE OF DECISION.—Not later than
9 180 days after the date of receiving a petition, the
10 Secretary shall publish in the Federal Register a no-
11 tice of, and explanation for, the decision of the Sec-
12 retary to grant or deny the petition.

13 “(4) NEW OR AMENDED STANDARDS.—Not
14 later than 3 years after the date of granting a peti-
15 tion for new or amended standards, the Secretary
16 shall publish in the Federal Register—

17 “(A) a final rule that contains the new or
18 amended standards; or

19 “(B) a determination that no new or
20 amended standards are necessary.”.

21 **SEC. 6. TECHNICAL CORRECTIONS.**

22 (a) TITLE III OF ENERGY INDEPENDENCE AND SE-
23 CURITY ACT OF 2007—ENERGY SAVINGS THROUGH IM-
24 PROVED STANDARDS FOR APPLIANCES AND LIGHTING.—

1 (1) Section 325(u) of the Energy Policy and
2 Conservation Act (42 U.S.C. 6295(u)) (as amended
3 by section 301(c) of the Energy Independence and
4 Security Act of 2007 (121 Stat. 1550)) is amend-
5 ed—

6 (A) by redesignating paragraph (7) as
7 paragraph (4); and

8 (B) in paragraph (4) (as so redesignated),
9 by striking “supplies is” and inserting “supply
10 is”.

11 (2) Section 302(b) of the Energy Independence
12 and Security Act of 2007 (121 Stat. 1551) is
13 amended by striking “6313(a)” and inserting
14 “6314(a)”.

15 (3) Section 342(a)(6) of the Energy Policy and
16 Conservation Act (42 U.S.C. 6313(a)(6)) (as amend-
17 ed by section 305(b)(2) of the Energy Independence
18 and Security Act of 2007 (121 Stat. 1554)) is
19 amended—

20 (A) in subparagraph (B)—

21 (i) by striking “If the Secretary” and
22 inserting the following:

23 “(i) IN GENERAL.—If the Secretary”;

24 (ii) by striking “clause (ii)(II)” and
25 inserting “subparagraph (A)(ii)(II)”;

1 (iii) by striking “clause (i)” and in-
2 serting “subparagraph (A)(i)”; and

3 (iv) by adding at the end the fol-
4 lowing:

5 “(ii) FACTORS.—In deter-
6 mining whether a standard is
7 economically justified for the pur-
8 poses of subparagraph (A)(ii)(II),
9 the Secretary shall, after receiv-
10 ing views and comments fur-
11 nished with respect to the pro-
12 posed standard, determine wheth-
13 er the benefits of the standard
14 exceed the burden of the pro-
15 posed standard by, to the max-
16 imum extent practicable, consid-
17 ering—

18 “(I) the economic impact of the
19 standard on the manufacturers and
20 on the consumers of the products sub-
21 ject to the standard;

22 “(II) the savings in operating
23 costs throughout the estimated aver-
24 age life of the product in the type (or
25 class) compared to any increase in the

1 price of, or in the initial charges for,
2 or maintenance expenses of, the prod-
3 ucts that are likely to result from the
4 imposition of the standard;

5 “(III) the total projected quan-
6 tity of energy savings likely to result
7 directly from the imposition of the
8 standard;

9 “(IV) any lessening of the utility
10 or the performance of the products
11 likely to result from the imposition of
12 the standard;

13 “(V) the impact of any lessening
14 of competition, as determined in writ-
15 ing by the Attorney General, that is
16 likely to result from the imposition of
17 the standard;

18 “(VI) the need for national en-
19 ergy conservation; and

20 “(VII) other factors the Sec-
21 retary considers relevant.

22 “(iii) ADMINISTRATION.—

23 “(I) ENERGY USE AND EFFI-
24 CIENCY.—The Secretary may not pre-
25 scribe any amended standard under

1 this paragraph that increases the
2 maximum allowable energy use, or de-
3 creases the minimum required energy
4 efficiency, of a covered product.

5 “(II) UNAVAILABILITY.—

6 “(aa) IN GENERAL.—The
7 Secretary may not prescribe an
8 amended standard under this
9 subparagraph if the Secretary
10 finds (and publishes the finding)
11 that interested persons have es-
12 tablished by a preponderance of
13 the evidence that a standard is
14 likely to result in the unavail-
15 ability in the United States in
16 any product type (or class) of
17 performance characteristics (in-
18 cluding reliability, features, sizes,
19 capacities, and volumes) that are
20 substantially the same as those
21 generally available in the United
22 States at the time of the finding
23 of the Secretary.

24 “(bb) OTHER TYPES OR
25 CLASSES.—The failure of some

1 types (or classes) to meet the cri-
2 terion established under this sub-
3 clause shall not affect the deter-
4 mination of the Secretary on
5 whether to prescribe a standard
6 for the other types or classes.”;
7 and

8 (B) in subparagraph (C)(iv), by striking
9 “An amendment prescribed under this sub-
10 section” and inserting “Notwithstanding sub-
11 paragraph (D), an amendment prescribed under
12 this subparagraph”.

13 (4) Section 342(a)(6)(B)(iii) of the Energy Pol-
14 icy and Conservation Act (as added by section
15 306(c) of the Energy Independence and Security Act
16 of 2007 (121 Stat. 1559)) is transferred and redes-
17 igned as clause (vi) of section 342(a)(6)(C) of the
18 Energy Policy and Conservation Act (as amended by
19 section 305(b)(2) of the Energy Independence and
20 Security Act of 2007 (121 Stat. 1554)).

21 (5) Section 345 of the Energy Policy and Con-
22 servation Act (42 U.S.C. 6316) (as amended by sec-
23 tion 312(e) of the Energy Independence and Secu-
24 rity Act of 2007 (121 Stat. 1567)) is amended—

1 (A) by striking “subparagraphs (B)
2 through (G)” each place it appears and insert-
3 ing “subparagraphs (B), (C), (D), (I), (J), and
4 (K)”;

5 (B) by striking “part A” each place it ap-
6 pears and inserting “part B”; and

7 (C) in subsection (a)—

8 (i) in paragraph (8), by striking
9 “and” at the end;

10 (ii) in paragraph (9), by striking the
11 period at the end and inserting “; and”;
12 and

13 (iii) by adding at the end the fol-
14 lowing:

15 “(10) section 327 shall apply with respect to
16 the equipment described in section 340(1)(L) begin-
17 ning on the date on which a final rule establishing
18 an energy conservation standard is issued by the
19 Secretary, except that any State or local standard
20 prescribed or enacted for the equipment before the
21 date on which the final rule is issued shall not be
22 preempted until the energy conservation standard
23 established by the Secretary for the equipment takes
24 effect.”;

1 (D) in subsection (b)(1), by striking “sec-
2 tion 325(p)(5)” and inserting “section
3 325(p)(4)”; and

4 (E) in subsection (h)(3), by striking “sec-
5 tion 342(f)(3)” and inserting “section
6 342(f)(4)”.

7 (6) Section 321(30)(D)(i)(III) of the Energy
8 Policy and Conservation Act (42 U.S.C.
9 6291(30)(D)(i)(III)) (as amended by section
10 321(a)(1)(A) of the Energy Independence and Secu-
11 rity Act of 2007 (121 Stat. 1574)) is amended by
12 inserting before the semicolon the following: “or, in
13 the case of a modified spectrum lamp, not less than
14 232 lumens and not more than 1,950 lumens”.

15 (7) Section 321(30)(T) of the Energy Policy
16 and Conservation Act (42 U.S.C. 6291(30)(T)) (as
17 amended by section 321(a)(1)(B) of the Energy
18 Independence and Security Act of 2007 (121 Stat.
19 1574)) is amended—

20 (A) in clause (i)—

21 (i) by striking the comma after
22 “household appliance” and inserting
23 “and”; and

24 (ii) by striking “and is sold at retail,”;
25 and

1 (B) in clause (ii), by inserting “when sold
2 at retail,” before “is designated”.

3 (8) Section 325(l)(4)(A) of the Energy Policy
4 and Conservation Act (42 U.S.C. 6295(l)(4)(A)) (as
5 amended by section 321(a)(3)(B) of the Energy
6 Independence and Security Act of 2007 (121 Stat.
7 1581)) is amended by striking “only”.

8 (9) Section 327(b)(1)(B) of the Energy Policy
9 and Conservation Act (42 U.S.C. 6297(b)(1)(B)) (as
10 amended by section 321(d)(3) of the Energy Inde-
11 pendence and Security Act of 2007 (121 Stat.
12 1585)) is amended—

13 (A) in clause (i), by inserting “and” after
14 the semicolon at the end;

15 (B) in clause (ii), by striking “; and” and
16 inserting a period; and

17 (C) by striking clause (iii).

18 (10) Section 321(30)(C)(ii) of the Energy Pol-
19 icy and Conservation Act (42 U.S.C.
20 6291(30)(C)(ii)) (as amended by section
21 322(a)(1)(B) of the Energy Independence and Secu-
22 rity Act of 2007 (121 Stat. 1587)) is amended by
23 inserting a period after “40 watts or higher”.

24 (11) Section 322(b) of the Energy Independ-
25 ence and Security Act of 2007 (121 Stat. 1588) is

1 amended by striking “6995(i)” and inserting
2 “6295(i)”.

3 (12) Section 325(b) of the Energy Independ-
4 ence and Security Act of 2007 (121 Stat. 1596) is
5 amended by striking “6924(c)” and inserting
6 “6294(c)”.

7 (13) This subsection and the amendments made
8 by this subsection take effect as if included in the
9 Energy Independence and Security Act of 2007
10 (Public Law 110–140; 121 Stat. 1492).

11 (b) ENERGY POLICY ACT OF 2005.—

12 (1) Section 325(g)(8)(C)(ii) of the Energy Pol-
13 icy and Conservation Act (42 U.S.C.
14 6295(g)(8)(C)(ii)) (as added by section 135(c)(2)(B)
15 of the Energy Policy Act of 2005) is amended by
16 striking “20F” and inserting “20°F”.

17 (2) This subsection and the amendment made
18 by this subsection take effect as if included in the
19 Energy Policy Act of 2005 (Public Law 109–58; 119
20 Stat. 594).

21 (c) ENERGY POLICY AND CONSERVATION ACT.—

22 (1) Section 340(2)(B) of the Energy Policy and
23 Conservation Act (42 U.S.C. 6311(2)(B)) is amend-
24 ed—

1 (A) in clause (xi), by striking “and” at the
2 end;

3 (B) in clause (xii), by striking the period
4 at the end and inserting “; and”; and

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

6 “(xiii) other motors.”.

7 (2) Section 343(a) of the Energy Policy and
8 Conservation Act (42 U.S.C. 6314(a)) is amended
9 by striking “Air-Conditioning and Refrigeration In-
10 stitute” each place it appears in paragraphs (4)(A)
11 and (7) and inserting “Air-Conditioning, Heating,
12 and Refrigeration Institute”.