

Side-by-Side Comparison of the Energy Savings and Industrial Competitiveness Acts of 2014 and 2015

Alliance Honorary Chair Senator Jeanne Shaheen (D-N.H.) and Vice-Chair Senator Rob Portman (R-Oh.) have introduced the Energy Savings and Industrial Competitiveness Act of 2015 (Portman-Shaheen). The newest iteration of this energy efficiency legislation is very similar to the last version, S. 2262, with a few changes outlined below. The bill contains the base components of the original bill and retains the 10 additional provisions that were “baked in” prior to the introduction of S. 2262.

The Portman-Shaheen bill is projected to create 192,000 jobs, save \$16.2 billion annually and avoid 95 million metric tons of CO2 emissions annually by 2030.

A brief overview of the changes made to the 2015 Energy Savings and Industrial Competitiveness Act are listed below.

- The addition of “water efficiency” to the definition of “Energy Service Provider”;
- Renamed and updated the “Extended Product System Rebate Program” to encompass a systems approach rather than a component approach;
- Modified Sec. 231. Energy Efficient Transformer Rebate Program to account for the 2016 implementation of new DOE efficiency standards for transformers;
- Removed the “fig leaf” from Sec. 432, referencing the High Performance and Sustainable Building Guidance; and
- Modified and replaced Section 441, *Voluntary certification programs for air conditioning, furnace, boiler, heat pump, and water heaters products*, with *Voluntary verification programs for air conditioning, furnace, boiler, heat pump, and water heater products*, which would require DOE to initiate a negotiated rulemaking with all stakeholders to establish criteria for a federally recognized voluntary independent verification program.

The chart below includes a line-by-line comparison of the two bills, highlighting which portions have changed:

Energy Savings and Industrial Competitiveness Act of 2014 S. 2262 (Shaheen-Portman)	Energy Savings and Industrial Competitiveness Act of 2015 (Portman-Shaheen)
Title I - Buildings	
Sec. 304. Updating State Building Energy Efficiency Codes	
Sec. 304. Updating State Building Energy Efficiency Codes. (b) State and Indian Tribe Certification of 14 Building Energy Code Updates.	Sec. 304. Updating State Building Energy Efficiency Codes. (b) State and Indian Tribe Certification of 6 Building Energy Code Updates.
(h) STUDIES – The Secretary, in consultation with 21 building science experts from the National Laboratories and institutions of higher education, designers and builders of energy-efficient	(h) Studies – The Secretary, in consultation with 15 building science experts from the National Laboratories and institutions of higher education, designers and builders of energy-efficient

residential and commercial buildings, code officials and other stakeholders, shall undertake a study of the feasibility, impact, economics, and merit of...	residential and commercial buildings, code officials and other stakeholders, shall undertake a study of the feasibility, impact, economics, and merit of...
Title II – Industrial Efficiency and Competitiveness	
Subtitle A – Manufacturing Efficiency	
<p>Subtitle A – Manufacturing Efficiency</p> <p>(3) Energy Service Provider. – The term ‘energy service provider’ means any business providing technology or services to improve the energy efficiency, power factor, or load management of a manufacturing site or other industrial process in an energy-intensive industry, or any utility operating under a utility energy service project.</p>	<p>Subtitle A – Manufacturing Efficiency</p> <p>(3) Energy Service Provider. – The term ‘energy service provider’ means any business providing technology or services to improve the energy efficiency, water efficiency, power factor, or load management of a manufacturing site or other industrial process in an energy-intensive industry, or any utility operating under a utility energy service project.</p>
Subtitle C – Electric Motor	
<p>Subtitle C – Electric Motor Rebate Program.</p> <p>SEC. 221. Energy Saving Motor Control, Electric Motor, and Advanced Motor Systems Rebate Program.</p> <p>(a) Definitions – in this section:</p>	<p>Subtitle C – Extended Product System Rebate Program.</p> <p>SEC. 221. Extended Product System Rebate Program.</p> <p>(a) Definitions – in this section:</p> <p>Makes changes, updates, and modifications to definitions to encompass a systems approach rather than a component approach:</p> <ul style="list-style-type: none"> - Removes the definition of “advanced motor and drive system,” - Retains the same definition for “electric motor,” - Includes for the first time definitions for “electronic control,” and “extended product system,” and - Modifies and updates definition of “Qualified Extended Product System.”
<p>(1) Advanced Motor and Drive System. – The term “advanced motor and drive system” means an electric motor and any required associated electronic control that –</p> <p>(A) offers variable or multiple speed operation;</p> <p>(B) offers efficiency at a rated full load that is greater than the efficiency described for the equivalent rating in –</p> <p>(i) table 12-12 of National Electrical Manufacturers Association (NEMA MG 1 – 2011); or</p> <p>(ii) section 431.446 of National Electrical Manufacturers Association (2012); and</p>	Not in 2015 Bill

<p>(C) uses –</p> <ul style="list-style-type: none"> (i) permanent magnet altering current synchronous motor technology; (ii) electronically commutated motor technology; (iii) switched reluctance motor technology; (iv) synchronous reluctance motor technology; (v) such other motor that has greater than 1 horsepower and uses a drive systems technology, as determined by the Secretary. 	
<p>(2) Electric Motor.—The term “electric motor” has the meaning given the term in section 431.12 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this Act).</p>	<p>Same as S. 2262</p>
<p>Not in S. 2262</p>	<p>(2) Electronic Control.—The term “electronic control” means—(A) a power converter; or (B) a combination of a power circuit and control circuit included on chassis.</p>
<p>Not in S. 2262</p>	<p>(3) Extended Product System.—The term “extended product system” means an electric motor and any required associated electronic control and driven load that—</p> <ul style="list-style-type: none"> (A) offers variable speed or multispeed operation; (B) offers partial load control that reduces input energy requirements (as measured in kilowatt hours) as compared to identified base levels set by the Secretary; and (C)(i) has greater than 1 horsepower; and (ii) uses an extended product system technology, as determined by the Secretary.
<p>(3) Qualified Product. The term “qualified product” means—</p> <ul style="list-style-type: none"> (A) a new constant speed electric motor control that— <ul style="list-style-type: none"> (i) is attached to an electric motor; and (ii) reduces the energy use of the electric motor by not less than 5 percent; and <p>(B) commercial or industrial machinery or equipment that—</p> <ul style="list-style-type: none"> (i) is manufactured and incorporates an advanced motor and drive system that has 	<p>(4) Qualified Extended Product System</p> <p>(A) In General. --- The term “qualified extended product system” means an extended product system that –</p> <ul style="list-style-type: none"> (i) includes an electric motor and an electronic control; and (ii) reduces the input energy (as measured in kilowatt-hours) required to operate the extended product system by not less than 5 percent, as compared to 5 identified base levels set by the Secretary. <p>Not in 2015 Bill</p>

<p>greater than 1 horsepower into a redesigned machine or equipment that did not previously make use of the advanced motor and drive system; or</p> <p>(ii) was previously used and placed back into service in calendar year 2014 or 2015 that upgrades the existing machine or equipment with an advanced motor and drive system.</p>	
<p>(b) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a program to provide rebates for expenditures made by qualified entities for the purchase and installation of qualified products.</p> <p>(c) QUALIFIED ENTITIES.—A qualified entity under this section shall be—</p> <p>(1) in the case of a qualified product described in subsection (a)(3)(A), the purchaser of the qualified product for whom the qualified product is installed; and</p> <p>(2) in the case of a qualified product described in subsection (a)(3)(B)), the manufacturer of the machine or equipment that incorporated the advanced motor and drive system into the machine or equipment.</p>	<p>(b) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a program to provide rebates for expenditures made by qualified entities for the purchase or installation of a qualified extended product system.</p> <p>(c) QUALIFIED ENTITIES.—</p> <p>(1) ELIGIBILITY REQUIREMENTS.—A qualified entity under this section shall be—</p> <p>(A) in the case of a qualified extended product system described in subsection (a)(4)(A), the purchaser of the qualified extended product that is installed; and</p> <p>(B) in the case of a qualified extended product system described in subsection (a)(4)(B), the manufacturer of the commercial or industrial machinery or equipment that incorporated the extended product system into that machinery or equipment.</p>
<p>(1) APPLICATION.—To be eligible to receive a rebate under this section, a qualified entity shall submit to the Secretary or an entity designated by the Secretary an application and certification in such form, at such time, and containing such information as the Secretary may require, including demonstrated evidence that the qualified entity purchased a qualified product and---</p> <p>(A) in the case of a qualified product described in subsection (a)(3)(A)—</p> <p>(i) demonstrated evidence that the qualified entity installed the qualified product in calendar year 2014 or 2015;</p> <p>(ii) demonstrated evidence that the qualified product reduces motor energy use by not less than 5 percent, in accordance with procedures approved by the Secretary;</p> <p>(iii) the serial number, manufacturer, and model number from the nameplate of the</p>	<p>(2) APPLICATION.—To be eligible to receive a rebate under this section, a qualified entity shall submit to the Secretary—</p> <p>(A) an application in such form, at such time, and containing such information as the Secretary may require; and</p> <p>(B) a certification that includes demonstrated evidence—</p> <p>(i) that the entity is a qualified entity; and</p> <p>(ii)(I) in the case of a qualified entity described in paragraph (1)(A)—</p> <p>(aa) that the qualified entity installed the qualified extended product system during the 2 fiscal years following the date of enactment of this Act;</p> <p>(bb) that the qualified extended product system meets the requirements of subsection (a)(4)(A); and</p> <p>(cc) showing the serial number, manufacturer, and model number from the nameplate of the installed motor of the qualified entity on which</p>

<p>installed motor of the qualified entity on which the qualified product was installed; and (B) in the case of a qualified product described in subsection (a)(3)(B)—</p> <p>(i) demonstrated evidence that the manufacturer—</p> <p>(I) redesigned a machine or equipment of a manufacturer that did not previously make use of an advanced motor and drive system; or (II) upgraded a used machine or equipment to incorporate an advanced motor and drive system;</p> <p>(II) upgraded a used machine or equipment to incorporate an advanced motor and drive system;</p> <p>(ii) demonstrated evidence that the qualified product was sold, installed, or placed back into service in calendar year 2014 or 2015; and</p> <p>(iii) the serial number, manufacturer, and model number from the nameplate of the installed motor of the qualified entity with which the advanced motor and drive system is integrated.</p>	<p>the qualified extended product system was installed; or</p> <p>(II) in the case of a qualified entity described in paragraph (1)(B), demonstrated evidence—</p> <p>(aa) that the qualified extended product system meets the requirements of subsection (a)(4)(B); and</p> <p>Not in 2015 Bill</p> <p>Not in 2015 Bill, though similar language above.</p> <p>(bb) showing the serial number, manufacturer, and model number from the nameplate of the installed motor of the qualified entity with which the extended product system is integrated.</p>
<p>(2) AUTHORIZED AMOUNT OF REBATE. (3) MAXIMUM AGGREGATE AMOUNT.—No entity shall be entitled to aggregate rebates under this section in excess of \$250,000.</p>	<p>(d) AUTHORIZED AMOUNT OF REBATE/ (2) MAXIMUM AGGREGATE AMOUNT.—A qualified entity shall not be entitled to aggregate rebates under this section in excess of \$25,000 per calendar year.</p>
<p>Subtitle D – Transformer Rebate Program</p>	
<p>SEC. 231. Energy Efficient Transformer Rebate Program.</p> <p>(a) Definition of Qualified Transformer.—In this section, the term “qualified transformer” means a transformer that meets or exceeds the National Electrical Manufacturers Association (NEMA) Premium Efficiency designation, calculated to 2 decimal points, as having 30 percent fewer losses than the NEMA TP–1–2002 efficiency standard for a transformer of the same number of phases and capacity, as measured in kilovolt-amperes.</p>	<p>SEC. 231. Energy Efficient Transformer Rebate Program.</p> <p>(a) Definitions.—In this section:</p> <p>(1) Qualified Energy Efficient Transformer.—The term “qualified energy efficient transformer” means a transformer that meets or exceeds the applicable energy conservation standards described in the tables in subsection (b)(2) and paragraphs (1) and (2) of subsection (c) of section 431.196 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this Act).</p>
<p>Not in S. 2262</p>	<p>(2) QUALIFIED ENERGY INEFFICIENT TRANS-15 FORMER.—The term “qualified energy inefficient transformer” means a transformer with an equal number of phases and capacity to a transformer described in any of the tables in subsection (b)(2) and paragraphs (1) and (2) of</p>

	<p>subsection (c) of section 431.196 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this Act) that—</p> <p>(A) does not meet or exceed the applicable energy conservation standards described in paragraph (1); and</p> <p>(B)(i) was manufactured between January 1, 1985, and December 31, 2006, for a transformer with an equal number of phases and capacity as a transformer described in the table in subsection (b)(2) of section 431.196 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this Act); or</p> <p>(ii) was manufactured between January 1, 1990, and December 31, 2009, for a transformer with an equal number of phases and capacity as a transformer described in the table in paragraph (1) or (2) of subsection (c) of that section (as in effect on the date of enactment of this Act).</p>
Not in S. 2262	<p>(3) QUALIFIED ENTITY.—The term “qualified entity” means an owner of industrial or manufacturing facilities, commercial buildings, or multifamily residential buildings, a utility, or an energy service company that fulfills the requirements of subsection (d).</p>
<p>(b) ESTABLISHMENT.—Not later than January 1, 2014, the Secretary shall establish a program under which rebates are provided for expenditures made by owners of industrial or manufacturing facilities, commercial buildings, and multifamily residential buildings for the purchase and installation of a new energy efficient transformer.</p>	<p>(b) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a program to provide rebates to qualified entities for expenditures made by the qualified entity for the replacement of a qualified energy inefficient transformer with a qualified energy efficient transformer.</p>
<p>(c) REQUIREMENTS.—</p> <p>(1) APPLICATION.—To be eligible to receive a rebate under this section, an owner shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary may require, including demonstrated evidence that the owner purchased a qualified transformer.</p> <p>Not in S. 2262</p>	<p>(c) REQUIREMENTS.—To be eligible to receive a rebate under this section, an entity shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary may require, including demonstrated evidence—</p> <p>New language in the 2015 Draft bill includes more requirements to become eligible to receive rebates.</p> <p>(1) that the entity purchased a qualified energy efficient transformer;</p> <p>(2) of the core loss value of the qualified energy efficient transformer, as measured by;</p>

	<p>(3) of the age of the qualified energy inefficient transformer being replaced;</p> <p>(4) of the core loss value of the qualified energy inefficient transformer being replaced—</p> <p>(A) as measured by a qualified professional or verified by the equipment manufacturer, as applicable; or</p> <p>(B) for transformers described in subsection (a)(2)(B)(i), as selected from a table of default values as determined by the Secretary in consultation with applicable industry; and</p> <p>(5) that the qualified energy inefficient transformer has been permanently decommissioned and scrapped.</p>
<p>(2) AUTHORIZED AMOUNT OF REBATE.—For qualified transformers, rebates, in dollars per kilo volt-ampere (referred to in this paragraph as “kVA”) shall be—</p> <p>(A) for 3-phase transformers— (i) with a capacity of not greater than 10 kVA, 15; (ii) with a capacity of not less than 10 kVA and not greater than 100 kVA, the difference between 15 and the quotient obtained by dividing— (I) the difference between— (aa) the capacity of the transformer in kVA; and (bb) 10; by (II) 9; and (iii) with a capacity greater than or equal to 100 kVA, 5; and</p> <p>(B) for single-phase transformers, 75 percent of the rebate for a 3-phase transformer of the same capacity.</p>	<p>(d) AUTHORIZED AMOUNT OF REBATE.—The amount of a rebate provided under this section shall be—</p> <p>The language below includes technical changes for eligibility</p> <p>(1) for a 3-phase or single-phase transformer with a capacity of not less than 10 and not greater than 2,500 kilovolt-amperes, twice the amount equal to the difference in Watts between the core loss value (as measured in accordance with paragraphs (2) and (4) of subsection (c)) of—9</p> <p>(A) the qualified energy inefficient transformer; and</p> <p>(B) the qualified energy efficient transformer; or</p> <p>(2) for a transformer described in subsection (a)(2)(B)(i), the amount determined using a table of default rebate values by rated transformer output, as measured in kilovolt-amperes, as determined by the Secretary in consultation with applicable industry.</p>
<p>(e) TERMINATION OF EFFECTIVENESS.—The authority provided by this section terminates effective December 31, 2015.</p>	<p>(e) TERMINATION OF EFFECTIVENESS.—The authority provided by this section terminates on December 31, 2017.</p>
<p>Title III – Federal Agency Energy Efficiency</p>	
<p>Sec. 303. Energy Efficient Data Centers</p>	
<p>Section 453 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17112) is amended—</p> <p>(1) in subsection (c), by striking paragraph (1) and inserting the following:</p>	<p>Section 453 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17112) is amended—</p> <p>1) in subsection (b)—</p>

<p>“(1) IN GENERAL.—Not later than 30 days after the date of enactment of the Energy Savings and Industrial Competitiveness Act of 2014, the Secretary and the Administrator shall—</p> <p>“(A) designate an established information technology industry organization to coordinate the program described in subsection (b); and</p> <p>“(B) make the designation public, including on an appropriate website.”; (2) by striking subsections (e) and (f) and inserting the following:</p>	<p>(A) in paragraph (2)(D)(iv), by striking “the organization” and inserting “an organization”; and</p> <p>(B) by striking paragraph (3); and (2) by striking subsections (c) through (g) and inserting the following:</p>
<p>Not in S. 2262</p>	<p>This section includes new language on Stakeholder involvement and sharing of best practices associated with energy efficient data centers.</p> <p>“(c) STAKEHOLDER INVOLVEMENT.—</p> <p>“(1) IN GENERAL.—The Secretary and the Administrator shall carry out subsection (b) in consultation with the information technology industry and other key stakeholders, with the goal of producing results that accurately reflect the best knowledge in the most pertinent domains.</p> <p>“(2) CONSIDERATIONS.—In carrying out consultation described in paragraph (1), the Secretary and the Administrator shall pay particular attention to organizations that—</p> <p>“(A) have members with expertise in energy efficiency and in the development, operation, and functionality of data centers, information technology equipment, and software, including representatives of hardware manufacturers, data center operators, and facility managers;</p> <p>“(B) obtain and address input from the National Laboratories (as that term is defined in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801)) or any institution of higher education, research institution, industry association, company, or public interest group with applicable expertise; “</p> <p>(C) follow—</p> <p>“(i) commonly accepted procedures for the development of specifications; and “(ii) accredited standards development processes; or</p> <p>“(D) have a mission to promote energy efficiency for data centers and information technology. “</p>

	(d) MEASUREMENTS AND SPECIFICATIONS.—The Secretary and the Administrator shall consider and assess the adequacy of the specifications, measurements, and benchmarks described in subsection (b) for use by the Federal Energy Management Program, the Energy Star Program, and other efficiency programs of the Department of Energy or the Environmental Protection Agency.
<p>“(e) STUDY.—The Secretary, with assistance from the Administrator, shall—</p> <p>“(1) not later than December 31, 2014, make available to the public an update to the Report to Congress on Server and Data Center Energy Efficiency published on August 2, 2007, under section 1 of Public Law 109–431 (120 Stat. 2920), that provides—</p> <p>“(A) a comparison and gap analysis of the estimates and projections contained in the original report with new data regarding the period from 2007 through 2013;</p> <p>“(B) an analysis considering the impact of information technologies, to include virtualization and cloud computing, in the public and private sectors; and</p> <p>Not in S. 2262</p> <p>“(C) updated projections and recommendations for best practices through fiscal year 2020; and</p> <p>“(2) collaborate with the organization designated under subsection (c) in preparing the report.</p>	<p>e) STUDY.—The Secretary, in consultation with the Administrator, not later than 18 months after the date of enactment of the Energy Savings and Industrial Competitiveness Act of 2015, shall make available to the public an update to the report submitted to Congress pursuant to section 1 of the Act of December 20, 2006 (Public Law 19 109–431; 120 Stat. 2920) entitled ‘Report to Congress on Server and Data Center Energy Efficiency’ and dated August 2, 2007, that provides—</p> <p>“(1) a comparison and gap analysis of the estimates and projections contained in the original report with new data regarding the period from 2007 through 2014;</p> <p>Same as S. 2262</p> <p>“(3) an evaluation of the impact of the combination of cloud platforms, mobile devices, social media, and big data on data center energy usage; and</p> <p>“(4) updated projections and recommendations for best practices through fiscal year 2020.</p> <p>Not in 2015 Bill</p>
<p>“(f) DATA CENTER ENERGY PRACTITIONER PROGRAM.—</p> <p>“(1) IN GENERAL.—The Secretary, in collaboration with the organization designated under subsection (c) and in consultation with the Administrator for the Office of E-Government and Information Technology within the Office of Management and Budget, shall maintain a data</p>	<p>Same as S. 2262</p>

<p>center energy practitioner program that leads to the certification of energy practitioners qualified to evaluate the energy usage and efficiency opportunities in data centers.</p> <p>“(2) EVALUATIONS.—Each Federal agency shall consider having the data centers of the agency evaluated every 4 years by energy practitioners certified pursuant to the program, whenever practicable using certified practitioners employed by the agency.”;</p> <p>(3) by redesignating subsection (g) as subsection (j); and (4) by inserting after subsection (f) the following:</p>	
<p>“(g) OPEN DATA INITIATIVE.—</p> <p>“(1) IN GENERAL.—The Secretary, in collaboration with the organization designated under subsection (c) and in consultation with the Administrator for the Office of E-Government and Information Technology within the Office of Management and Budget, shall establish an open data initiative for Federal data center energy usage data, with the purpose of making the data available and accessible in a manner that empowers further data center optimization and consolidation.</p> <p>“(2) ADMINISTRATION.—In establishing the initiative, the Secretary shall consider use of the online Data Center Maturity Model.</p>	<p>“(g) OPEN DATA INITIATIVE.—</p> <p>“(1) IN GENERAL.—The Secretary, in consultation with key stakeholders and the Director of the Office of Management and Budget, shall establish an open data initiative for Federal data center energy usage data, with the purpose of making the data available and accessible in a manner that encourages further data center innovation, optimization, and consolidation.</p> <p>“(2) CONSIDERATION.—In establishing the initiative under paragraph (1), the Secretary shall consider using the online Data Center Maturity Model.</p>
<p>“(h) INTERNATIONAL SPECIFICATIONS AND METRICS.—The Secretary, in collaboration with the organization designated under subsection (c), shall actively participate in efforts to harmonize global specifications and metrics for data center energy efficiency.</p>	<p>“(h) INTERNATIONAL SPECIFICATIONS AND METRICS.—The Secretary, in consultation with key stakeholders, shall actively participate in efforts to harmonize global specifications and metrics for data center energy efficiency.</p>
<p>“(i) DATA CENTER UTILIZATION METRIC.—The Secretary, in collaboration with the organization designated under subsection (c), shall assist in the development of an efficiency metric that measures the energy efficiency of the overall data center.”</p>	<p>“(i) DATA CENTER UTILIZATION METRIC.—The Secretary, in collaboration with key stakeholders, shall facilitate in the development of an efficiency metric that measures the energy efficiency of a data center (including equipment and facilities).</p>
<p>Not in S. 2262</p>	<p>“(j) PROTECTION OF PROPRIETARY INFORMATION.— The Secretary and the Administrator shall not disclose any proprietary information or trade secrets provided by any individual or company for the purposes of</p>

	carrying out this section or the programs and initiatives established under this section.”
Title IV – Regulatory Provisions	
Subtitle D - Energy Performance Requirement for Federal Buildings	
SEC. 432. Federal Building Energy Efficiency Performance Standards; Certification System and Level for Green Buildings	
“(V) in addition to complying with the other requirements under this paragraph, unless found not to be life-cycle cost effective, new Federal buildings that are at least 5,000 square feet in size shall comply with the Guiding Principles for Sustainable New Construction and Major Renovations (as established in the document entitled High Performance and Sustainable Buildings Guidance (Final) and dated December 1, 2008).	Not in 2015 Bill
Subtitle E – Third Party Testing	Not in 2015 Draft
Sec. 441. Voluntary Certification Programs for Air Conditioning, Furnace, Boiler, Heat Pump, and Water Heater Products.	SEC. 2. Voluntary Verification Programs for Air Conditioning, Furnace, Boiler, Heat Pump, and Water Heater Products.
Section 326(b) of the Energy Policy and Conservation Act (42 U.S.C. 6296(b)) is amended by adding at the end the following:	Same as S. 2262
“(6) Voluntary Certification Programs for Air Conditioning, Furnace, Boiler, Heat Pump, and Water Heater Products.—	“(6) Voluntary Verification Programs for Air Conditioning, Furnace, Boiler, Heat Pump, and Water Heater Products.—
“(A) DEFINITION OF BASIC MODEL GROUP.—In this paragraph, the term ‘basic model group’ means a set of models— “(i) that share characteristics that allow the performance of 1 model to be generally representative of the performance of other models within the group; and “(ii) in which the group of products does not necessarily have to share discrete performance.	Not in 2015 Bill
“(B) RELIANCE ON VOLUNTARY CERTIFICATION PROGRAMS.—For the purpose of testing to verify the performance rating of , or receiving test reports from manufacturers certifying compliance with energy conservation standards and Energy Star specifications established under sections 324A, 325, and 342, the covered products described in paragraphs (3), (4), (5), (9),	“(A) RELIANCE ON VOLUNTARY PROGRAMS.—For the purpose of verifying compliance with energy conservation standards and Energy Star specifications established under sections 324A, 325, and 342 for covered products described in paragraphs (3), (4), (5), (9), and (11) of section 322(a) and covered equipment described in subparagraphs (B), (C), (D), (F), (I), (J), and (K) of

<p>and (11) of section 322(a) and covered equipment described in subparagraphs (B), (C), (D), (F), (I), (J), and (K) of section 340(1), the Secretary and Administrator shall rely on voluntary certification programs that—</p> <p>“(i) are nationally recognized;</p> <p>Not in S. 2262</p> <p>Not in S. 2262</p> <p>Not in S. 2262</p> <p>“(ii) maintain a publicly available list of all certified products and equipment;</p> <p>“(iii) as determined by the Secretary, annually test not less than 10 percent and not more than 30 percent of the basic model group of a program participant.</p> <p>“(iv) require the changing of the performance rating or removal of the product or equipment from the program, if verification testing determines that the performance rating does not meet the levels the manufacturer has certified to the Secretary;</p> <p>“(v) require the qualification of new participants in the program through testing and production of test reports;</p> <p>“(vi) allow for challenge testing of products and equipment within the scope of the program;</p>	<p>section 340(1), the Secretary and Administrator of the Environmental Protection Agency shall —</p> <p>“(i) rely on voluntary verification programs that are recognized by the Secretary according to criteria that have consensus support established through a negotiated rulemaking in accordance with the Federal Advisory Committee Act and the Negotiated Rulemaking Act</p> <p>“(ii) within 180 days after enactment of this Act, initiate a negotiated rulemaking described in subparagraph A(i) to establish criteria for achieving recognition by the Secretary as an approved voluntary verification program, which at a minimum must ensure that voluntary verification programs that —</p> <p>“(II) satisfy applicable elements of International Organization for Standardization standard number 17025, and other relevant International Organization for Standardization standards identified and agreed to through the Negotiated Rulemaking referred to in this paragraph;</p> <p>“(III) at least annually test products following the test procedures established under this subchapter to verify the certified rating of a representative sample of products and equipment within the scope of the program;</p> <p>“(IV) maintain a publicly available list of all certified products and equipment and their certified ratings;</p> <p>Not in 2015 Bill</p> <p>“(V) require the changing of the performance rating or removal of the product or equipment from the program, if testing determines that the performance rating does not meet the levels the manufacturer has certified to the Secretary;</p> <p>(VI) Same as S. 2262</p> <p>(VII) Same as S. 2262</p>
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<p>“(vii) require program participants to certify the performance rating of all covered products and equipment within the scope of the program;</p> <p>“(viii) are conducted by a certification body that is accredited under International Organization for Standardization/ International Electrotechnical Commission (ISO/IEC) Standard 17065;</p> <p>“(ix) provide to the Secretary— “(I) an annual report of all test results;</p> <p>“(II) prompt notification when program testing results in— “(aa) the rerating of the performance rating of a product or equipment; or “(bb) the delisting of a product or equipment; and “(III) test reports, on the request of the Secretary or the Administrator, for Energy Star compliant products, which shall be treated as confidential business information as provided for under section 552(b)(4) of title 5, United States Code (commonly known as the “Freedom of Information Act”);</p> <p>“(x) use verification testing that— “(I) is conducted by an independent test laboratory that is accredited under International Organization for Standardization/International 12 Electrotechnical Commission (ISO/IEC) Standard 17025 with a scope covering the tested products or equipment; “(II) follows the test procedures established under this title; and “(III) notes in each test report any instructions specified by the manufacturer or the representative of the manufacturer for the purpose of conducting the verification testing; and</p>	<p>“(VIII) require program participants to certify the performance rating of all covered products and equipment within the scope of the voluntary verification program for the covered product or equipment;</p> <p>Not in 2015 Bill</p> <p>“(IX) provide to the Secretary – “(aa) an annual report of all test results, the contents of which must be determined through the negotiated rulemaking process;</p> <p>Same as S. 2262</p> <p>“</p> <p>“</p> <p>“(cc) test reports, on the request of the Secretary or the Administrator of the Environmental Protection Agency, that shall note any instructions specified by the manufacturer or the representative of the manufacturer for the purpose of conducting the verification testing. Test reports shall be treated as confidential business information as provided for under section 552(b)(4) of title 5, United States Code (commonly known as the ‘Freedom of Information Act’); and</p> <p>Not in 2015 Bill</p>
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<p>“(xi) satisfy such other requirements as the Secretary has determined— “(I) are essential to ensure standards compliance; or “(II) have consensus support achieved through a negotiated rulemaking process.</p> <p>Not in S. 2262</p> <p>“(C) ADMINISTRATION.— “(i) IN GENERAL.—The Secretary shall not require— “(I) manufacturers to participate in a voluntary certification program described in subparagraph (B); or “(II) participating manufacturers to provide information that can be obtained through a voluntary certification program described in subparagraph (B).</p> <p>“(ii) LIST OF COVERED PRODUCTS.— The Secretary or the Administrator may maintain a publicly available list of covered products and equipment certified under a program described in subparagraph (B) that distinguishes between— “(I) covered products and equipment verified by the program; and “(II) products not verified by the program.</p>	<p>“(X) satisfy any additional requirements or standards that the Secretary and Administrator of the Environmental Protection Agency shall establish consistent with this subparagraph. “(iii) retain authority to revise the criteria established under clause (ii) by initiating – (I) a notice of proposed rulemaking, pursuant to 5 U.S.C. § 553, upon publication of a determination in the Federal Register that revisions to the criteria are necessary, or; (II) a direct final rule, pursuant to 5 U.S.C. § 553(b)(3)(B), upon a determination in the Federal Register that revisions to the criteria are necessary and that substantive opposition to the proposed revisions is not expected. If the Secretary does not receive adversarial comments within 30 days following publication of that determination in the Federal Register, the direct final rule will have the force and effect of law. Receipt of any adversarial comment will require the Secretary to withdraw the direct final rule and publish a notice of proposed rulemaking, pursuant to 5 U.S.C. § 553.</p> <p>“(B) ADMINISTRATION. – “(i) IN GENERAL. – Neither the Secretary nor the Administrator of the Environmental Protection Agency shall require – “(I) manufacturers to participate in a voluntary verification program described in subparagraph (A); or “(II) participating manufacturers to provide information that can be obtained through a voluntary verification program described in subparagraph (A).</p> <p>(ii) LIST OF COVERED PRODUCTS. – The Secretary or the Administrator of the Environmental Protection Agency may maintain a publicly available list of covered products and equipment certified under 42 U.S.C. § 6296 that distinguishes between – “(I) covered products and equipment certified by a program described in subparagraph (A); and “(II) products not certified by a program described in subparagraph (A).</p>
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<p>“(iii) REDUCTION OF REQUIREMENTS.—Any rules promulgated by the Secretary that require testing of products or equipment for certification of performance ratings shall on average reduce requirements and burdens for manufacturers participating in a voluntary certification program described in subparagraph (B) for the products or equipment relative to other manufacturers.</p> <p>“(iv) PERIODIC TESTING BY PROGRAM NONPARTICIPANTS.—In addition to certification requirements, the Secretary shall require a manufacturer that does not participate in a voluntary certification program described in subparagraph (B)—</p> <p>“(I) to verify the accuracy of the performance rating of the product or equipment through periodic testing using the testing methods described in clause (iii) or (x) of subparagraph (B); and</p> <p>“(II) to provide to the Secretary test results and, on request, test reports verifying the certified performance for each basic model group of the manufacturer.</p> <p>“(v) RESTRICTIONS ON TEST LABORATORIES.—</p> <p>“(I) IN GENERAL.—Subject to subclause (II), with respect to covered products and equipment, a voluntary certification program described in subparagraph (B) shall not be a test laboratory that conducts the testing on products or equipment within the scope of the program.</p> <p>“(II) LIMITATION.—Subclause (I) shall not apply to Energy Star specifications established under section 324A.</p> <p>“(vi) EFFECT ON OTHER AUTHORITY.—Nothing in this paragraph limits the authority of the Secretary or the Administrator to test products or equipment or to enforce compliance with any law (including regulations).”</p>	<p>Not in 2015 Bill</p> <p>“(iii) PERIODIC VERIFICATION TESTING.—The Secretary shall not subject products or equipment that are certified under a voluntary verification program described in subparagraph</p> <p>(A) to periodic verification testing that verifies the accuracy of their certified performance rating, but may test such products or equipment when needed to assess the overall performance of a voluntary verification program, to address specific performance issues, to determine other performance characteristics for use in updating test procedures and standards, and for other purposes consistent with this subchapter.</p> <p>Not in 2015 Bill</p> <p>“(iv) EFFECT ON OTHER AUTHORITY.—Nothing in this paragraph limits the authority of the Secretary or the Administrator of the Environmental Protection Agency to enforce compliance with any law.”</p>
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Title V - Miscellaneous

SEC. 501. Offset

Section 422(f) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17082(f)) is amended—

(1) in paragraph (3), by striking “and” after 6 the semicolon at the end; and (2) by striking paragraph (4) and inserting the following:
“(4) \$200,000,000 for fiscal year 2013; and
“(5) \$144,000,000 for each of fiscal years 2014 through 2018.”

SEC. 501. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

SEC. 502. ADVANCE APPROPRIATIONS REQUIRED.

The authorization of amounts under this Act and the amendments made by this Act shall be effective for any fiscal year only to the extent and in the amount provided in advance in appropriations Acts.