

**SIDE-BY-SIDE COMPARISON OF REGIONAL STANDARDS PROVISIONS IN
HOUSE AND SENATE ENERGY BILLS**

Senate

H.R.6

**Renewable Fuels, Consumer Protection,
and Energy Efficiency Act of 2007 (Public
Print)**

House

H.R.3221

**Renewable Energy and Energy
Conservation Tax Act of 2007
(Engrossed as Agreed to or Passed by
House)**

**SEC. 222. REGIONAL EFFICIENCY
STANDARDS FOR HEATING AND
COOLING PRODUCTS.**

(a) In General- Section 327 of the Energy Policy and Conservation Act (42 U.S.C. 6297) is amended--

*(1) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and
(2) by inserting after subsection (d) the following:*

`(e) Regional Efficiency Standards for Heating and Cooling Products-

`(1) IN GENERAL-

`(A) DETERMINATION- The Secretary may determine, after notice and comment, that more stringent Federal energy conservation standards are appropriate for furnaces, boilers, or central air conditioning equipment than applicable Federal energy conservation standards.

`(B) FINDING- The Secretary may determine that more stringent standards are appropriate for up to 2 different regions only

**SEC. 9004. REGIONAL
VARIATIONS IN HEATING OR
COOLING STANDARDS.**

(a) Consumer Appliances- Section 325(o) of the Energy Policy and Conservation Act (42 U.S.C. 6925(o)) is amended by adding at the end the following new paragraph:

`(6)(A) The Secretary may establish regional standards for space heating and air conditioning products, other than window-unit air-conditioners and portable space heaters. For each space heating and air conditioning product, the Secretary may establish a national minimum standard and two more stringent regional standards for regions determined to have significantly differing climatic conditions. Any standards set for any such region shall achieve the maximum level of energy savings that are technically feasible and economically justified within that region. As a preliminary step to determining the economic justifiability of establishing any such regional standard, the Secretary shall conduct a study involving stakeholders, including but not

after finding that the regional standards--

`(i) would contribute to energy savings that are substantially greater than that of a single national energy standard; and

`(ii) are economically justified.

`(C) REGIONS- On making a determination described in subparagraph (B), the Secretary shall establish the regions so that the more stringent standards would achieve the maximum level of energy savings that is technologically feasible and economically justified.

`(D) FACTORS- In determining the appropriateness of 1 or more regional standards for furnaces, boilers, and central and commercial air conditioning equipment, the Secretary shall consider all of the factors described in paragraphs (1) through (4) of section 325(o).

`(2) STATE PETITION- After a determination made by the Secretary under paragraph (1), a State may petition the Secretary requesting a rule that a State regulation that establishes a standard for furnaces, boilers, or central air conditioners become effective at a level determined by the Secretary to be appropriate for the region that includes the State.

`(3) RULE- Subject to paragraphs (4) through (7), the Secretary may issue the rule during the period described in paragraph (4) and after consideration of the petition and the comments of interested

limited to a representative from the National Institute of Standards and Technology; representatives of nongovernmental advocacy organizations; representatives of product manufacturers, distributors, and installers; representatives of the gas and electric utility industries; and such other individuals as the Secretary may designate. Such study shall determine the potential benefits and consequences of prescribing regional standards for heating and cooling products, and may, if favorable to such standards, constitute the evidence of economic justifiability required under this Act. Regional boundaries shall follow State borders and only include contiguous States (except Alaska and Hawaii), except that on the request of a State, the Secretary may divide that State to include a part of that State in each of two regions.

`(B) If the Secretary establishes regional standards, it shall be unlawful under section 332 to offer for sale at retail, sell at retail, or install noncomplying products except within the specified regions.

`(C)(i) Except as provided in clause (ii), no product manufactured to a regional standard established pursuant to subparagraph (A) shall be distributed in commerce without a prominent label affixed to the product which includes at the top of the label, in print of not less than 14-point type, the following: `It is a violation of Federal law for this product to be installed in any State outside the region shaded on the map printed on this label.'. Below this notice shall appear a map of the United States with clearly defined State boundaries and names, and with all States in which the product meets or exceeds the standard established pursuant to

persons.

(4) PROCEDURE-

(A) NOTICE- The Secretary shall provide notice of any petition filed under paragraph (2) and afford interested persons a reasonable opportunity to make written comments, including rebuttal comments, on the petition.

(B) DECISION- Except as provided in subparagraph (C), during the 180-day period beginning on the date on which the petition is filed, the Secretary shall issue the requested rule or deny the petition.

(C) EXTENSION- The Secretary may publish in the Federal Register a notice--

(i) extending the period to a specified date, but not longer than 1 year after the date on which the petition is filed; and

(ii) describing the reasons for the delay.

(D) DENIALS- If the Secretary denies a petition under this subsection, the Secretary shall publish in the Federal Register notice of, and the reasons for, the denial.

(5) FINDING OF SIGNIFICANT BURDEN ON MANUFACTURING, MARKETING, DISTRIBUTION, SALE, OR SERVICING OF COVERED PRODUCT ON NATIONAL BASIS-

(A) IN GENERAL- The Secretary may not issue a rule under this subsection if the Secretary finds (and publishes the finding) that interested persons have

subparagraph (A) shaded in a color or a manner as to be easily visible without obscuring the State boundaries and names. Below the map shall be printed on each label the following: 'It is a violation of Federal law for this label to be removed, except by the owner and legal resident of any single-family home in which this product is installed.'

(ii) A product manufactured that meets or exceeds all regional standards established under this paragraph shall bear a prominent label affixed to the product which includes at the top of the label, in print of not less than 14-point type the following: 'This product has achieved an energy efficiency rating under Federal law allowing its installation in any State.'

(D) Manufacturers of space heating and air conditioning equipment subject to regional standards established under this paragraph shall obtain and retain records on the intended installation locations of the equipment sold, and shall make such records available to the Secretary on request.'

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

(10)(A) The Secretary may establish regional standards for space heating and air conditioning products subject to this subsection. For each space heating and air conditioning product, the Secretary may establish a national minimum standard and two more stringent regional standards for regions determined to have significantly differing climatic conditions. Any standards set for any such region shall achieve the

established, by a preponderance of the evidence, that the State regulation will significantly burden manufacturing, marketing, distribution, sale, or servicing of a covered product on a national basis.

`(B) FACTORS- In determining whether to make a finding described in subparagraph (A), the Secretary shall evaluate all relevant factors, including--

`(i) the extent to which the State regulation will increase manufacturing or distribution costs of manufacturers, distributors, and others;

`(ii) the extent to which the State regulation will disadvantage smaller manufacturers, distributors, or dealers or lessen competition in the sale of the covered product in the State; and

`(iii) the extent to which the State regulation would cause a burden to manufacturers to redesign and produce the covered product type (or class), taking into consideration the extent to which the regulation would result in a reduction--

`(I) in the current models, or in the projected

maximum level of energy savings that are technically feasible and economically justified within that region. Regional boundaries shall follow State borders and only include contiguous States (except Alaska and Hawaii), except that on the request of a State, the Secretary may divide that State to include a part of that State in each of two regions.

`(B) If the Secretary establishes regional standards, it shall be unlawful under section 345 to offer for sale at retail, sell at retail, or install noncomplying products except within the specified regions.

`(C) Manufacturers of space heating and air conditioning equipment subject to regional standards established under this paragraph shall obtain and retain records on the intended installation locations of the equipment sold, and shall make such records available to the Secretary on request.'

*availability of models, that could be shipped on the effective date of the regulation to the State and within the United States; or
(II) in the current or projected sales volume of the covered product type (or class) in the State and the United States.*

(6) APPLICATION- No State regulation shall become effective under this subsection with respect to any covered product manufactured before the date specified in the determination made by the Secretary under paragraph (1).

(7) PETITION TO WITHDRAW FEDERAL RULE FOLLOWING AMENDMENT OF FEDERAL STANDARD-

(A) IN GENERAL- If a State has issued a rule under paragraph (3) with respect to a covered product and subsequently a Federal energy conservation standard concerning the product is amended pursuant to section 325, any person subject to the State regulation may file a petition with the Secretary requesting the Secretary to withdraw the rule issued under paragraph (3) with respect to the product in the State.

*`(B) BURDEN OF PROOF-
The Secretary shall consider
the petition in accordance
with paragraph (5) and the
burden shall be on the
petitioner to show by a
preponderance of the
evidence that the rule
received by the State under
paragraph (3) should be
withdrawn as a result of the
amendment to the Federal
standard.*

*`(C) WITHDRAWAL- If the
Secretary determines that
the petitioner has shown that
the rule issued by the
Secretary under paragraph
(3) should be withdrawn in
accordance with
subparagraph (B), the
Secretary shall withdraw the
rule.'*

(b) Conforming Amendments-

*(1) Section 327 of the Energy
Policy and Conservation Act (42
U.S.C. 6297) is amended--*

(A) in subsection (b)--

*(i) in paragraph (2),
by striking
`subsection (e)' and
inserting `subsection
(f)'; and*

(ii) in paragraph (3)--

*(I) by striking
`subsection
(f)(1)' and
inserting
`subsection
(g)(1)'; and
(II) by striking
`subsection
(f)(2)' and
inserting
`subsection
(g)(2)'; and*

*(B) in subsection (c)(3), by
striking `subsection (f)(3)'*

and inserting `subsection (g)(3)'.`

(2) Section 345(b)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6316(b)(2)) is amended by adding at the end the following:

`(E) RELATIONSHIP TO CERTAIN STATE REGULATIONS- Notwithstanding subparagraph (A), a standard prescribed or established under section 342(a) with respect to the equipment specified in subparagraphs (B), (C), (D), (H), (I), and (J) of section 340 shall not supersede a State regulation that is effective under the terms, conditions, criteria, procedures, and other requirements of section 327(e).`.