**(Including Amendments to Resolve Conflicts)**

# A-Engrossed
# Senate Bill 375

Ordered by the House May 24
Including House Amendments dated May 24

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## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Establishes minimum energy efficiency standards for certain products. Prohibits sale or installation of products that do not meet standards. Allows Director of State Department of Energy to adopt rules in certain cases to update minimum efficiency standards. Requires director to introduce bill at Legislative Assembly to conform statutory minimum efficiency standards with rules. Requires director to apply for waiver of federal preemption in certain cases.

## A BILL FOR AN ACT

Relating to minimum energy efficiency standards; creating new provisions; and amending ORS 469.229, 469.233, 469.238, 469.239, 469.255 and 469.261.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 469.229 is amended to read:

469.229. As used in ORS 469.229 to 469.261, unless the context clearly requires otherwise:

(1) "Automatic commercial ice cube machine" means a factory-made assembly, not necessarily shipped in one package, consisting of a condensing unit and ice-making section operating as an integrated unit with means for making and harvesting ice cubes, and any integrated components for storing or dispensing ice.

(2) "Ballast" means a device used with an electric discharge lamp to obtain necessary circuit conditions for starting and operating the lamp.

**(3) "Bottle-type water dispenser" means a water dispenser that uses a bottle or reservoir as the source of potable water.**

[*(3)*] **(4)** "Commercial clothes washer" means a soft mount horizontal-axis or vertical-axis clothes washer that:

(a) Has a clothes compartment no greater than 3.5 cubic feet in the case of a horizontal-axis product or no greater than 4 cubic feet in the case of a vertical-axis product; and

(b) Is designed for use by more than one household.

**(5)(a) "Commercial hot food holding cabinet" means an appliance that is a heated, fully-enclosed compartment with one or more solid doors and is designed to maintain the temperature of hot food that has been cooked in a separate appliance.**

**(b) "Commercial hot food holding cabinet" does not include heated glass merchandising cabinets, drawer warmers or cook-and-hold appliances.**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

[*(4)*] **(6)** "Commercial prerinse spray valve" means a handheld device designed and marketed for use with commercial dishwashing equipment and that sprays water on dishes, flatware and other food service items for the purpose of removing food residue prior to their cleaning.

[*(5)*] **(7)** "Commercial refrigerators or freezers" means refrigerators, freezers or refrigerator-freezers, smaller than 85 cubic feet of internal volume and designed for use by commercial or institutional facilities for the purpose of storing or merchandising food products, beverages or ice at specified temperatures, other than products without doors, walk-in refrigerators or freezers, consumer products that are federally regulated pursuant to 42 U.S.C. 6291 et seq. or freezers specifically designed for ice cream. "Commercial refrigerators or freezers":

(a) Must incorporate most components involved in the vapor-compression cycle and the refrigerated compartment in a single cabinet; and

(b) May be configured with either solid or transparent doors as a reach-in cabinet, pass-through cabinet, roll-in cabinet or roll-through cabinet.

**(8)(a) "Compact audio product," also known as a mini, mid, micro or shelf audio system, means an integrated audio system encased in a single housing that includes an amplifier and radio tuner and attached or separable speakers that can reproduce audio from one or more of the following media:**

**(A) Magnetic tape;**

**(B) Compact disc;**

**(C) DVD; or**

**(D) Flash memory.**

**(b) "Compact audio product" does not include products that can be independently powered by internal batteries, have a powered external satellite antenna or can provide a video output signal.**

**(9) "Compensation" means money or any other valuable thing, regardless of form, received or to be received by a person for services rendered.**

**(10) "Digital versatile disc" or "DVD" means a laser-encoded plastic medium capable of storing a large amount of digital audio, video and computer data.**

**(11)(a) "Digital versatile disc player" or "digital versatile disc recorder" means a commercially available electronic product encased in a single housing that includes an integral power supply and for which the sole purpose is, respectively, the decoding and the production or recording of digitized video signal on a DVD.**

**(b) "Digital versatile disc recorder" does not include models that have an electronic programming guide function that provides an interactive, on-screen menu of television listings and downloads program information from the vertical blanking interval of a regular television signal.**

[*(6)*] **(12)** "High-intensity discharge lamp" means a lamp in which light is produced by the passage of an electric current through a vapor or gas, and in which the light-producing arc is stabilized by bulb wall temperature and the arc tube has a bulb wall loading in excess of three watts per square centimeter.

[*(7)*] **(13)** "Illuminated exit sign" means an internally illuminated sign that is designed to be permanently fixed in place to identify a building exit, that consists of an electrically powered integral light source that illuminates the legend "EXIT" and any directional indicators and that provides contrast between the legend, any directional indicators and the background.

[*(8)*] **(14)** "Metal halide lamp" means a high-intensity discharge lamp in which the major portion

of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.

[*(9)*] **(15)** "Metal halide lamp fixture" means a light fixture designed to be operated with a metal halide lamp and a ballast for a metal halide lamp.

[*(10)*] **(16)** "Pass-through cabinet" means a commercial refrigerator or freezer with hinged or sliding doors on both the front and rear of the unit.

**(17) "Portable electric spa" means a factory-built electric spa or hot tub supplied with equipment for heating and circulating water.**

[*(11)*] **(18)** "Probe-start metal halide lamp ballast" means a ballast used to operate metal halide lamps that does not contain an igniter and that instead starts metal halide lamps by using a third starting electrode probe in the arc tube.

[*(12)*] **(19)** "Reach-in cabinet" means a commercial refrigerator or freezer with hinged or sliding doors or lids, other than roll-in or roll-through cabinets or pass-through cabinets.

[*(13)*] **(20)** "Roll-in cabinet" means a commercial refrigerator or freezer with hinged or sliding doors that allow wheeled racks to be rolled into the unit.

[*(14)*] **(21)** "Roll-through cabinet" means a commercial refrigerator or freezer with hinged or sliding doors on two sides of the cabinet that allow wheeled racks to be rolled through the unit.

[*(15)*] **(22)** "Single-voltage external AC to DC power supply" means a device, other than a product with batteries or battery packs that physically attach directly to the power supply unit, a product with a battery chemistry or type selector switch and indicator light or a product with a battery chemistry or type selector switch and a state of charge meter, that:

(a) Is designed to convert line voltage alternating current input into lower voltage direct current output;

(b) Is able to convert to only one direct current output voltage at a time;

(c) Is sold with, or intended to be used with, a separate end-use product that constitutes the primary power load;

(d) Is contained within a separate physical enclosure from the end-use product;

(e) Is connected to the end-use product via a removable or hard-wired male or female electrical connection, cable, cord or other wiring; and

(f) Has a nameplate output power less than or equal to 250 watts.

[*(16)*] **(23)** "State-regulated incandescent reflector lamp" means a lamp that is not colored or designed for rough or vibrating service applications, that has an inner reflective coating on the outer bulb to direct the light, that has an E26 medium screw base, that has a rated voltage or voltage range that lies at least partially within 115 to 130 volts and that falls into one of the following categories:

(a) A bulged reflector or elliptical reflector bulb shape that has a diameter that equals or exceeds 2.25 inches; or

(b) A reflector, parabolic aluminized reflector or similar bulb shape that has a diameter of 2.25 to 2.75 inches.

[*(17)*] **(24)** "Torchiere" means a portable electric lighting fixture with a reflective bowl that directs light upward so as to produce indirect illumination.

[*(18)*] **(25)** "Traffic signal module" means a standard traffic signal indicator, consisting of a light source, a lens and all other parts necessary for operation, that is:

(a) Eight inches, or approximately 200 millimeters, in diameter; or

(b) Twelve inches, or approximately 300 millimeters, in diameter.

[*(19)*] **(26)** "Unit heater" means a self-contained, vented fan-type commercial space heater, other than a consumer product covered by federal standards established pursuant to 42 U.S.C. 6291 et seq. or that is a direct vent, forced flue heater with a sealed combustion burner, that uses natural gas or propane and that is designed to be installed without ducts within a heated space.

**(27) "Walk-in refrigerator" and "walk-in freezer" mean a space refrigerated to temperatures, respectively, at or above and below 32° F that can be walked into.**

**(28) "Water dispenser" means a factory-made assembly that mechanically cools and heats potable water and dispenses the cooled or heated water by integral or remote means.**

**SECTION 2.** ORS 469.233 is amended to read:

469.233. The following minimum energy efficiency standards for new products are established:

(1)(a) Automatic commercial ice cube machines must have daily energy use and daily water use no greater than the applicable values in the following table:

| Equipment type | Type of cooling | Harvest rate (lbs. ice/24 hrs.) | Maximum energy use (kWh/100 lbs.) | Maximum condenser water use (gallons/100 lbs. ice) |
|---|---|---|---|---|
| Ice-making head | water | <500 | 7.80 -.0055H | 200 -.022H |
| | | ≥ 500<1436 | 5.58 -.0011H | 200 -.022H |
| | | ≥ 1436 | 4.0 | 200 -.022H |
| Ice-making head | air | <450 | 10.26 -.0086H | Not applicable |
| | | ≥ 450 | 6.89 -.0011H | Not applicable |
| Remote condensing but not remote compressor | air | <1000 | 8.85 -.0038 | Not applicable |
| | | ≥ 1000 | 5.10 | Not applicable |
| Remote condensing and remote compressor | air | <934 | 8.85 -.0038H | Not applicable |
| | | ≥ 934 | 5.30 | Not applicable |
| Self-contained models | water | <200 | 11.40 -.0190H | 191 -.0315H |
| | | ≥ 200 | 7.60 | 191 -.0315H |
| Self-contained models | air | <175 | 18.0 -.0469H | Not applicable |
| | | ≥ 175 | 9.80 | Not applicable |

Where H = harvest rate in pounds per 24 hours, which must be reported within 5 percent of the tested value. Maximum water use applies only to water used for the condenser.

(b) For purposes of this subsection, automatic commercial ice cube machines shall be tested in accordance with the ARI 810-2003 test method as published by the Air-Conditioning and Refrigeration Institute. Ice-making heads include all automatic commercial ice cube machines that are not

split system ice makers or self-contained models as defined in ARI 810-2003.

(2) Commercial clothes washers must have a minimum modified energy factor of 1.26 and a maximum water consumption factor of 9.5. For purposes of this subsection, capacity, modified energy factor and water consumption factor are defined and shall be measured in accordance with the federal test method for commercial clothes washers under 10 C.F.R. 430.23.

(3) Commercial prerinse spray valves must have a flow rate equal to or less than 1.6 gallons per minute when measured in accordance with the ASTM International's "Standard Test Method for Prerinse Spray Valves," ASTM F2324-03.

(4)(a) Commercial refrigerators or freezers must meet the applicable requirements listed in the following table:

| Equipment Type | Doors | Maximum Daily Energy Consumption (kWh) |
|---|---|---|
| Reach-in cabinets, pass-through cabinets and roll-in or roll-through cabinets that are refrigerators | Solid | 0.10V + 2.04 |
| | Transparent | 0.12V + 3.34 |
| Reach-in cabinets, pass-through cabinets and roll-in or roll-through cabinets that are "pulldown" refrigerators | Transparent | .126V + 3.51 |
| Reach-in cabinets, pass-through cabinets and roll-in or roll-through cabinets that are freezers | Solid | 0.40V + 1.38 |
| | Transparent | 0.75V + 4.10 |
| Reach-in cabinets that are refrigerator-freezers with an AV of 5.19 or higher | Solid | 0.27AV - 0.71 |

kWh = kilowatt hours

V = total volume ($ft^3$)

AV = adjusted volume = 1.63 x freezer volume ($ft^3$) + refrigerator volume ($ft^3$)

(b) For purposes of this subsection:

(A) "Pulldown" designates products designed to take a fully stocked refrigerator with beverages at 90 degrees Fahrenheit and cool those beverages to a stable temperature of 38 degrees Fahrenheit within 12 hours or less.

(B) Daily energy consumption shall be measured in accordance with the American National Standards Institute/American Society of Heating, Refrigerating and Air-Conditioning Engineers test

method 117-2002, except that:

(i) The back-loading doors of pass-through and roll-through refrigerators and freezers must remain closed throughout the test; and

(ii) The controls of all commercial refrigerators or freezers shall be adjusted to obtain the following product temperatures, in accordance with the California Code of Regulations, Title 20, Division 2, Chapter 4, Article 4, section 1604, table A-2, effective November 27, 2002:

| Product or compartment type | Integrated average product temperature in degrees Fahrenheit |
|---|---|
| Refrigerator | 38 ± 2 |
| Freezer | 0 ± 2 |

(5) Illuminated exit signs must have an input power demand of five watts or less per illuminated face. For purposes of this subsection, input power demand shall be measured in accordance with the conditions for testing established by the United States Environmental Protection Agency's Energy Star exit sign program version 3.0. Illuminated exit signs must also meet all applicable building and safety codes.

(6) Metal halide lamp fixtures designed to be operated with lamps rated greater than or equal to 150 watts but less than or equal to 500 watts may not contain a probe-start metal halide lamp ballast.

(7)(a) Single-voltage external AC to DC power supplies must meet the requirements in the following table:

| Nameplate output | Minimum Efficiency in Active Mode |
|---|---|
| <1 Watt | 0.49 * Nameplate Output |
| ≥ 1 Watt and ≤ 49 Watts | 0.09 * Ln (Nameplate Output) + 0.49 |
| >49 Watts | 0.84 |
| | **Maximum Energy Consumption in No-Load Mode** |
| ≤ 10 Watts | 0.5 Watts |
| >10 Watts and ≤ 250 Watts | 0.75 Watts |

Where Ln (Nameplate Output) - Natural Logarithm of the nameplate output expressed in Watts

(b) For the purposes of this subsection, efficiency of single-voltage external AC to DC power supplies shall be measured in accordance with the United States Environmental Protection Agency's

"Test Method for Calculating the Energy Efficiency of Single-Voltage External AC to DC and AC to AC Power Supplies," dated August 11, 2004.

(8)(a) State-regulated incandescent reflector lamps, other than 50 watt elliptical reflector lamps, must meet the minimum efficiencies in the following table:

| Wattage | Minimum average lamp efficiency (lumens per watt) |
|---|---|
| 40 - 50 | 10.5 |
| 51 - 66 | 11.0 |
| 67 - 85 | 12.5 |
| 86 - 115 | 14.0 |
| 116 - 155 | 14.5 |
| 156 - 205 | 15.0 |

(b) Lamp efficiency shall be measured in accordance with the applicable test method found in 10 C.F.R. 430.23.

(9) Torchieres may not use more than 190 watts. A torchiere uses more than 190 watts if any commercially available lamp or combination of lamps can be inserted in a socket and cause the torchiere to draw more than 190 watts when operated at full brightness.

(10)(a) Traffic signal modules must have maximum and nominal wattage that does not exceed the applicable values in the following table:

| Module Type | Maximum Wattage (at 74°C) | Nominal Wattage (at 25°C) |
|---|---|---|
| 12" red ball (or 300 mm circular) | 17 | 11 |
| 8" red ball (or 200 mm circular) | 13 | 8 |
| 12" red arrow (or 300 mm arrow) | 12 | 9 |
| 12" green ball (or 300 mm circular) | 15 | 15 |
| 8" green ball (or 200 mm circular) | 12 | 12 |
| 12" green arrow (or 300 mm arrow) | 11 | 11 |

(b) For purposes of this subsection, maximum wattage and nominal wattage shall be measured in accordance with and under the testing conditions specified by the Institute for Transportation Engineers "Interim LED Purchase Specification, Vehicle Traffic Control Signal Heads, Part 2: Light Emitting Diode Vehicle Traffic Signal Modules."

(11) Unit heaters must be equipped with intermittent ignition devices and must have either power venting or an automatic flue damper.

**(12) Bottle-type water dispensers designed for dispensing both hot and cold water may**

**not have standby energy consumption greater than 1.2 kilowatt-hours per day, as measured in accordance with the test criteria contained in Version 1 of the United States Environmental Protection Agency's "Energy Star Program Requirements for Bottled Water Coolers," except that units with an integral, automatic timer may not be tested using Section D, "Timer Usage," of the test criteria.**

**(13) Commercial hot food holding cabinets shall have a maximum idle energy rate of 40 watts per cubic foot of interior volume, as determined by the "Idle Energy Rate-dry Test" in ASTM F2140-01, "Standard Test Method for Performance of Hot Food Holding Cabinets" published by ASTM International. Interior volume shall be measured in accordance with the method shown in the United States Environmental Protection Agency's "Energy Star Program Requirements for Commercial Hot Food Holding Cabinets," as in effect on August 15, 2003.**

**(14) Compact audio products may not use more than two watts in standby passive mode for those without a permanently illuminated clock display and four watts in standby passive mode for those with a permanently illuminated clock display, as measured in accordance with International Electrotechnical Commission (IEC) test method 62087:2002(E), "Methods of Measurement for the Power Consumption of Audio, Video, and Related Equipment."**

**(15) Digital versatile disc players and digital versatile disc recorders may not use more than three watts in standby passive mode, as measured in accordance with International Electrotechnical Commission (IEC) test method 62087:2002(E), "Methods of Measurement for the Power Consumption of Audio, Video, and Related Equipment."**

**(16) Portable electric spas may not have a standby power greater than $5(V^{2/3})$ Watts where V=the total volume in gallons, as measured in accordance with the test method for portable electric spas contained in the California Code of Regulations, Title 20, Division 2, Chapter 4, section 1604.**

**(17)(a) Walk-in refrigerators and walk-in freezers with the applicable motor types shown in the table below shall include the required components shown.**

| Motor Type | Required Components |
|---|---|
| All | Interior lights: light sources with an efficacy of 45 lumens per watt or more, including ballast losses (if any). |
| All | Automatic door closers that firmly close all reach-in doors |
| All | Automatic door closers that firmly close all walk-in doors no wider than 3.9 feet and no higher than 6.9 feet that have been closed to within one inch of full closure. |
| All | Wall, ceiling and door insulation at least R-28 for refrigerators and at least R-34 for freezers |
| All | Floor insulation at least R-28 for freezers (no requirement for refrigerators) |
| Condenser fan motors of under one horsepower | (i) Electronically commutated motors, (ii) Permanent split capacitor-type motors, or |

| | |
|---|---|
| | **(iii) Polyphase motors of ½ horsepower or more** |
| **Single-phase evaporator fan motors of under one horsepower and less than 460 volts** | **Electronically commutated motors** |

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**(b) In addition to the requirements in paragraph (a) of this subsection, walk-in refrigerators and walk-in freezers with transparent reach-in doors shall meet the following requirements:**

**(A) Transparent reach-in doors shall be of triple pane glass with either heat-reflective treated glass or gas fill;**

**(B) If the appliance has an anti-sweat heater without anti-sweat controls, the appliance shall have a total door rail, glass and frame heater power draw of no more than 40 watts if it is a freezer or 17 watts if it is a refrigerator per foot of door frame width; and**

**(C) If the appliance has an anti-sweat heater with anti-sweat heat controls, and the total door rail, glass, and frame heater power draw is 40 watts or greater per foot of door frame width if it is a freezer or 17 watts or greater per foot of door frame width if it is a refrigerator, the anti-sweat heat controls shall reduce the energy use of the anti-sweat heater in an amount corresponding to the relative humidity in the air outside the door or to the condensation on the inner glass pane.**

**SECTION 3.** ORS 469.238, as amended by sections 3 and 4, chapter 437, Oregon Laws 2005, is amended to read:

469.238. (1) Except as provided in subsection (2) of this section, a person may not sell or offer for sale a new commercial clothes washer, commercial prerinse spray valve, commercial refrigerator or freezer, illuminated exit sign, single-voltage external AC to DC power supply, state-regulated incandescent reflector lamp, torchiere, traffic signal module, automatic commercial ice cube machine, metal halide lamp fixture**,** [*or*] unit heater**, bottle-type water dispenser, commercial hot food holding cabinet, compact audio product, digital versatile disc player, digital versatile disc recorder, portable electric spa, walk-in refrigerator or walk-in freezer** unless the energy efficiency of the new product meets or exceeds the minimum energy efficiency standards specified in ORS 469.233.

(2) A person may sell or offer for sale a new product not meeting efficiency standards specified in subsection (1) of this section if the product is:

(a) Manufactured in this state and sold outside this state;

(b) Manufactured outside this state and sold at wholesale inside this state for final retail sale and installation outside this state;

(c) Installed in a mobile or manufactured home at the time of construction; or

(d) Designed expressly for installation and use in recreational vehicles.

**SECTION 4.** ORS 469.239, as amended by section 7, chapter 437, Oregon Laws 2005, is amended to read:

469.239. (1) Except as provided in subsection (2) of this section, a person may not install a new commercial clothes washer, commercial prerinse spray valve, commercial refrigerator or freezer, illuminated exit sign, single-voltage external AC to DC power supply, state-regulated incandescent reflector lamp, torchiere, traffic signal module, automatic commercial ice cube machine, metal halide

lamp fixture**,** [*or*] unit heater**, bottle-type water dispenser, commercial hot food holding cabinet, compact audio product, digital versatile disc player, digital versatile disc recorder, portable electric spa, walk-in refrigerator or walk-in freezer** for compensation unless the energy efficiency of the new product meets or exceeds the minimum energy efficiency standards specified in ORS 469.233.

(2) A person may install a new product not meeting efficiency standards specified in subsection (1) of this section if the product is:

(a) Installed in a mobile or manufactured home at the time of construction; or

(b) Designed expressly for installation and use in recreational vehicles.

**SECTION 5.** ORS 469.255 is amended to read:

469.255. (1) A manufacturer of a product specified in ORS 469.238 that is sold or offered for sale, or installed or offered for installation, in this state shall test samples of their products in accordance with the test methods specified in ORS 469.233 or, if more stringent, those specified in the state building code.

(2) The State Department of Energy shall adopt test methods for products required to be tested under this section if the test methods are not provided for in ORS 469.233 or in the state building code. The department shall use test methods approved by the United States Department of Energy or, in the absence of federal test methods, other appropriate nationally recognized test methods for guidance in adopting test methods. The State Department of Energy may periodically review and revise its test methods.

(3) A manufacturer required to test a product pursuant to this section, except for a manufacturer of single-voltage external AC to DC power supplies, **walk-in refrigerators and walk-in freezers** shall certify to the State Department of Energy that the products are in compliance with the minimum energy efficiency standards specified in ORS 469.233. The manufacturer shall base its certification on the testing performed pursuant to this section. The department shall establish rules governing the certification of these products and may coordinate with the certification programs of other states and federal agencies with similar standards.

(4) A manufacturer required to test a product pursuant to this section shall identify each product that complies with the minimum energy efficiency standards specified in ORS 469.233 by means of a mark, label or tag on the product and packaging at the time of sale or installation. The department shall establish rules governing the identification of the products and packaging, which shall be coordinated to the greatest extent practicable with the labeling programs of other states and federal agencies with equivalent efficiency standards.

**SECTION 5a. If House Bill 2565 becomes law, section 5 of this 2007 Act (amending ORS 469.255) is repealed and ORS 469.255, as amended by section 6, chapter ___, Oregon Laws 2007 (Enrolled House Bill 2565), is amended to read:**

469.255. (1) A manufacturer of a product specified in ORS 469.238 that is sold or offered for sale, or installed or offered for installation, in this state shall test samples of the manufacturer's products in accordance with the test methods specified in ORS 469.233 or, if more stringent, those specified in the state building code.

(2) If the test methods for products required to be tested under this section are not provided for in ORS 469.233 or in the state building code, the State Department of Energy shall adopt test methods for these products. The department shall use test methods approved by the United States Department of Energy or, in the absence of federal test methods, other appropriate nationally recognized test methods for guidance in adopting test methods. The State Department of Energy may

periodically review and revise its test methods.

(3) A manufacturer of a product regulated pursuant to ORS 469.229 to 469.261**, except for manufacturers of single-voltage external AC to DC power supplies, walk-in refrigerators and walk-in freezers,** shall certify to the State Department of Energy that the products are in compliance with the minimum energy efficiency standards specified in ORS 469.233. The department shall establish rules governing the certification of these products and may coordinate with the certification **and testing** programs of other states and federal agencies with similar standards.

(4)(a) The department shall establish rules governing the identification of the products that comply with the minimum energy efficiency standards specified in ORS 469.233. The rules shall be coordinated to the greatest extent practicable with the labeling programs of other states and federal agencies with equivalent efficiency standards.

(b) Identification required under paragraph (a) of this subsection shall be by means of a mark, label or tag on the product and packaging at the time of sale or installation.

(c) The department shall waive marking, labeling or tagging requirements for products marked, labeled or tagged in compliance with federal requirements or for products certified pursuant to subsection (3) of this section, unless the department determines that state marking, labeling or tagging is required to provide adequate energy efficiency information to the consumer.

**SECTION 6.** ORS 469.261 is amended to read:

469.261. **(1)(a)** Notwithstanding ORS 469.233, the State Department of Energy shall periodically review the minimum energy efficiency standards specified in ORS 469.233**.** [*and shall report to the Legislative Assembly when the standards need to be updated, due to federal action or to the outcome of collaborative consultations with manufacturers and the energy departments of other states.*]

**(b) After the review pursuant to paragraph (a) of this subsection, the Director of the State Department of Energy may adopt rules to update the minimum energy efficiency standards specified in ORS 469.233 if the director determines that the standards need to be updated:**

**(A) To promote energy conservation in the state;**

**(B) To achieve cost-effectiveness for consumers; or**

**(C) Due to federal action or to the outcome of collaborative consultations with manufacturers and the energy departments of other states.**

**(c) After the review pursuant to paragraph (a) of this subsection, the director may adopt rules to establish new minimum energy efficiency standards if the director determines that new standards are needed:**

**(A) To promote energy conservation in the state;**

**(B) To achieve cost-effectiveness for consumers; or**

**(C) Due to federal action or to the outcome of collaborative consultations with manufacturers and the energy departments of other states.**

**(d) If the director adopts rules under paragraph (b) of this subsection to update the minimum energy efficiency standards specified in ORS 469.233 or under paragraph (c) of this subsection to establish new minimum energy efficiency standards:**

**(A) The rules may not take effect until one year following their adoption by the director; and**

**(B) The Governor shall cause to be introduced at the next Legislative Assembly a bill to conform the statutory minimum energy efficiency standards to the minimum energy efficiency standards adopted by the director in rule.**

**(2) If the director determines that implementation of a state minimum energy efficiency standard requires a waiver of federal preemption, the director shall apply for a waiver of federal preemption pursuant to 42 U.S.C. 6297(d).**

**SECTION 6a. If House Bill 2565 becomes law, section 6 of this 2007 Act (amending ORS 469.261) is repealed and ORS 469.261, as amended by section 7, chapter ___, Oregon Laws 2007 (Enrolled House Bill 2565), is amended to read:**

469.261. (1)(a) Notwithstanding ORS 469.233, the State Department of Energy shall periodically review the minimum energy efficiency standards specified in ORS 469.233.

[*(b) After the review pursuant to paragraph (a) of this subsection, the Director of the State Department of Energy may adopt rules to update the minimum energy efficiency standards specified in ORS 469.233 if the director determines that:*]

[*(A)(i) Adjoining states with similar minimum energy efficiency standards for new products have modified the standards applicable to products governed by ORS 469.233 and the modified minimum efficiency standards adopted in such states are consistent with the energy policy of ORS 469.010; and*]

[*(ii) Failure to change the minimum energy efficiency standards specified in ORS 469.233 would impose a substantial hardship on manufacturers, retailers or the public; or*]

[*(B) The modified minimum efficiency standards are necessary due to federal action or to the outcome of collaborative consultations with manufacturers and the energy departments of other states.*]

**(b) After the review pursuant to paragraph (a) of this subsection, the Director of the State Department of Energy may adopt rules to update the minimum energy efficiency standards specified in ORS 469.233 if the director determines that the standards need to be updated:**

**(A) To promote energy conservation in the state;**

**(B) To achieve cost-effectiveness for consumers; or**

**(C) Due to federal action or to the outcome of collaborative consultations with manufacturers and the energy departments of other states.**

(c)(A) In addition to the rules adopted under paragraph (b) of this subsection, the director may postpone by rule the operative date of any of the minimum **energy** efficiency standards specified in ORS 469.233 if the director determines that:

(i) Adjoining states with similar minimum energy efficiency standards have postponed the operative date of their corresponding minimum **energy** efficiency standards; or

(ii) Failure to modify the operative date of any of the minimum energy efficiency standards would impose a substantial hardship on manufacturers, retailers or the public.

(B)(i) The director may not postpone the operative date of a minimum energy efficiency standard under subparagraph (A) of this paragraph for more than one year.

(ii) If at the end of the first postponement period the director determines that adjoining states have further postponed the operative date of minimum **energy** efficiency standards and the requirements of [*sub-subparagraph*] **subparagraph** (A) of this paragraph continue to be met, the director may postpone the operative date for not more than one additional year.

**(d) After the review pursuant to paragraph (a) of this subsection, the director may adopt rules to establish new minimum energy efficiency standards if the director determines that new standards are needed:**

**(A) To promote energy conservation in the state;**

**(B) To achieve cost-effectiveness for consumers; or**

**(C) Due to federal action or to the outcome of collaborative consultations with man-**

**ufacturers and the energy departments of other states.**

**(e) If the director adopts rules under paragraph (b) of this subsection to update the minimum energy efficiency standards specified in ORS 469.233 or under paragraph (d) of this subsection to establish new minimum energy efficiency standards:**

**(A) The rules may not take effect until one year following their adoption by the director; and**

**(B) The Governor shall cause to be introduced at the next Legislative Assembly a bill to conform the statutory minimum energy efficiency standards to the minimum energy efficiency standards adopted by the director by rule.**

[*(2) If the director adopts rules under subsection (1)(b) of this section to update the minimum energy efficiency standards specified in ORS 469.233 or under of subsection (1)(c) of this section to postpone the operative dates of the minimum energy efficiency standards specified in ORS 469.233, then the Governor shall cause to be introduced at the next Legislative Assembly a bill to conform the statutory minimum energy efficiency standards and operative dates to the minimum energy efficiency standards and operative dates adopted by the director by rule.*]

**(2) If the director determines that implementation of a state minimum energy efficiency standard requires a waiver of federal preemption, the director shall apply for a waiver of federal preemption pursuant to 42 U.S.C. 6297(d).**

**SECTION 7. The minimum efficiency standard for interior lights established in ORS 469.233 (17)(a) applies to walk-in refrigerators and walk-in freezers on or after January 1, 2010.**

**SECTION 8. (1) The amendments to ORS 469.238 by section 3 of this 2007 Act become operative on September 1, 2009.**

**(2) The amendments to ORS 469.239 by section 4 of this 2007 Act become operative on September 1, 2010.**

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