

AMENDED IN ASSEMBLY MAY 1, 2012  
AMENDED IN ASSEMBLY MARCH 29, 2012  
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1850**

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**Introduced by Assembly Member Charles Calderon**

February 22, 2012

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An act to amend Section 25402 of the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1850, as amended, Charles Calderon. Energy: appliance efficiency.

~~(1) Existing~~

*Existing* law requires the State Energy Resources Conservation and Development Commission to prescribe, by regulation, appliance efficiency standards, based on reasonable and current use patterns, to promote the use of energy and water efficient appliances. Existing law requires these standards to become effective no sooner than one year after the date of adoption or revision.

~~This bill would require the commission to prescribe the appliance efficiency standards only if it finds less restrictive, nonregulatory, or regulatory alternatives are not feasible, and that the standards do not harm employment, competition, consumer choice, or product innovation, and do not significantly affect retail prices and burden commerce, as specified.~~

~~The bill would additionally authorize the commission to prescribe other cost-effective measures that are technologically feasible and designed to minimize compliance burdens.~~

~~The bill would require the standards to become effective no sooner than 2 years after the date of adoption or revision.~~

~~(2) Existing law requires the appliance standards adopted or revised under these provisions to not result in any added total costs for consumers over the life of the appliances. Existing law requires the commission to consider other relevant factors in the adoption of the appliance standards.~~

~~This bill would require, for appliance standards that are effective on and after January 1, 2013, the discount rates, payback calculations, and life cycle cost estimates to use interest rates that are applicable to consumer financing and to use the average life of the products before replacement. The bill would additionally require the commission, in adopting the appliance standards, to consider impacts on interstate commerce. The bill would require the commission, before prescribing standards for consumer electronics and information technology equipment, to conduct an additional specified analysis and to make specified findings.~~

~~(3) Existing~~

~~Existing law provides that, within 5 years after the adoption of an appliance standard, a change in an appliance standard shall not become effective unless the commission adopts other cost-effective measures for that appliance.~~

~~This bill would additionally provide that a change in the appliance standard may become effective if the commission finds that the appliance standard is no longer needed. *The bill would require the commission, in establishing the appliance standards, to rely on the most current data possible and, whenever feasible, rely on data no older than one year prior to the commencement of the formal rulemaking process.*~~

~~(4) Existing law requires the commission to treat sales information of an individual manufacturer as confidential and provides that information is not a public record.~~

~~This bill would additionally require the commission to treat other confidential or proprietary business information as confidential under these provisions.~~

~~(5) This bill would require the commission to make certain determinations when retaining consultants.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 25402 of the Public Resources Code is*  
2 *amended to read:*

3     25402. The commission shall, after one or more public  
4 hearings, do all of the following, in order to reduce the wasteful,  
5 uneconomic, inefficient, or unnecessary consumption of energy,  
6 including the energy associated with the use of water:

7     (a) (1) Prescribe, by regulation, lighting, insulation climate  
8 control system, and other building design and construction  
9 standards that increase the efficiency in the use of energy and water  
10 for new residential and new nonresidential buildings. The  
11 commission shall periodically update the standards and adopt any  
12 revision that, in its judgment, it deems necessary. Six months after  
13 the commission certifies an energy conservation manual pursuant  
14 to subdivision (c) of Section 25402.1, no city, county, city and  
15 county, or state agency shall issue a permit for any building unless  
16 the building satisfies the standards prescribed by the commission  
17 pursuant to this subdivision or subdivision (b) that are in effect on  
18 the date an application for a building permit is filed. Water  
19 efficiency standards adopted pursuant to this subdivision shall be  
20 demonstrated by the commission to be necessary to save energy.

21     (2) Prior to adopting a water efficiency standard for residential  
22 buildings, the Department of Housing and Community  
23 Development and the commission shall issue a joint finding  
24 whether the standard (A) is equivalent or superior in performance,  
25 safety, and for the protection of life, health, and general welfare  
26 to standards in Title 24 of the California Code of Regulations and  
27 (B) does not unreasonably or unnecessarily impact the ability of  
28 Californians to purchase or rent affordable housing, as determined  
29 by taking account of the overall benefit derived from water  
30 efficiency standards. Nothing in this subdivision in any way  
31 reduces the authority of the Department of Housing and  
32 Community Development to adopt standards and regulations  
33 pursuant to Part 1.5 (commencing with Section 17910) of Division  
34 13 of the Health and Safety Code.

35     (3) Water efficiency standards and water conservation design  
36 standards adopted pursuant to this subdivision and subdivision (b)  
37 shall be consistent with the legislative findings of this division to  
38 ensure and maintain a reliable supply of electrical energy and be

1 equivalent to or superior to the performance, safety, and protection  
2 of life, health, and general welfare standards contained in Title 24  
3 of the California Code of Regulations. The commission shall  
4 consult with the members of the coordinating council as established  
5 in Section 18926 of the Health and Safety Code in the development  
6 of these standards.

7 (b) (1) Prescribe, by regulation, energy and water conservation  
8 design standards for new residential and new nonresidential  
9 buildings. The standards shall be performance standards and shall  
10 be promulgated in terms of energy consumption per gross square  
11 foot of floorspace, but may also include devices, systems, and  
12 techniques required to conserve energy and water. The commission  
13 shall periodically review the standards and adopt any revision that,  
14 in its judgment, it deems necessary. A building that satisfies the  
15 standards prescribed pursuant to this subdivision need not comply  
16 with the standards prescribed pursuant to subdivision (a). Water  
17 conservation design standards adopted pursuant to this subdivision  
18 shall be demonstrated by the commission to be necessary to save  
19 energy. Prior to adopting a water conservation design standard for  
20 residential buildings, the Department of Housing and Community  
21 Development and the commission shall issue a joint finding  
22 whether the standard (A) is equivalent or superior in performance,  
23 safety, and for the protection of life, health, and general welfare  
24 to standards in the California Building Standards Code and (B)  
25 does not unreasonably or unnecessarily impact the ability of  
26 Californians to purchase or rent affordable housing, as determined  
27 by taking account of the overall benefit derived from the water  
28 conservation design standards. Nothing in this subdivision in any  
29 way reduces the authority of the Department of Housing and  
30 Community Development to adopt standards and regulations  
31 pursuant to Part 1.5 (commencing with Section 17910) of Division  
32 13 of the Health and Safety Code.

33 (2) In order to increase public participation and improve the  
34 efficacy of the standards adopted pursuant to subdivisions (a) and  
35 (b), the commission shall, prior to publication of the notice of  
36 proposed action required by Section 18935 of the Health and Safety  
37 Code, involve parties who would be subject to the proposed  
38 regulations in public meetings regarding the proposed regulations.  
39 All potential affected parties shall be provided advance notice of  
40 these meetings and given an opportunity to provide written or oral

1 comments. During these public meetings, the commission shall  
2 receive and take into consideration input from all parties  
3 concerning the parties' design recommendations, cost  
4 considerations, and other factors that would affect consumers and  
5 California businesses of the proposed standard. The commission  
6 shall take into consideration prior to the start of the notice of  
7 proposed action any input provided during these public meetings.

8 (3) The standards adopted or revised pursuant to subdivisions  
9 (a) and (b) shall be cost-effective when taken in their entirety and  
10 when amortized over the economic life of the structure compared  
11 with historic practice. When determining cost-effectiveness, the  
12 commission shall consider the value of the water or energy saved,  
13 impact on product efficacy for the consumer, and the life cycle  
14 cost of complying with the standard. The commission shall consider  
15 other relevant factors, as required by Sections 18930 and 18935  
16 of the Health and Safety Code, including, but not limited to, the  
17 impact on housing costs, the total statewide costs and benefits of  
18 the standard over its lifetime, economic impact on California  
19 businesses, and alternative approaches and their associated costs.

20 (c) (1) Prescribe, by regulation, standards for minimum levels  
21 of operating efficiency, based on a reasonable use pattern, and  
22 may prescribe other cost-effective measures, including incentive  
23 programs, fleet averaging, energy and water consumption labeling  
24 not preempted by federal labeling law, and consumer education  
25 programs, to promote the use of energy and water efficient  
26 appliances whose use, as determined by the commission, requires  
27 a significant amount of energy or water on a statewide basis. The  
28 minimum levels of operating efficiency shall be based on feasible  
29 and attainable efficiencies or feasible improved efficiencies that  
30 will reduce the energy or water consumption growth rates. The  
31 standards shall become effective no sooner than one year after the  
32 date of adoption or revision. No new appliance manufactured on  
33 or after the effective date of the standards may be sold or offered  
34 for sale in the state, unless it is certified by the manufacturer thereof  
35 to be in compliance with the standards. The standards shall be  
36 drawn so that they do not result in any added total costs for  
37 consumers over the designed life of the appliances concerned.

38 In order to increase public participation and improve the efficacy  
39 of the standards adopted pursuant to this subdivision, the  
40 commission shall, prior to publication of the notice of proposed

1 action required by Section 18935 of the Health and Safety Code,  
2 involve parties who would be subject to the proposed regulations  
3 in public meetings regarding the proposed regulations. All potential  
4 affected parties shall be provided advance notice of these meetings  
5 and given an opportunity to provide written or oral comments.  
6 During these public meetings, the commission shall receive and  
7 take into consideration input from all parties concerning the parties'  
8 design recommendations, cost considerations, and other factors  
9 that would affect consumers and California businesses of the  
10 proposed standard. The commission shall take into consideration  
11 prior to the start of the notice of proposed action any input provided  
12 during these public meetings.

13 The standards adopted or revised pursuant to this subdivision  
14 shall not result in any added total costs for consumers over the  
15 designed life of the appliances concerned. When determining  
16 cost-effectiveness, the commission shall consider the value of the  
17 water or energy saved, impact on product efficacy for the  
18 consumer, and the life cycle cost to the consumer of complying  
19 with the standard. The commission shall consider other relevant  
20 factors, as required by Sections 11346.5 and 11357 of the  
21 Government Code, including, but not limited to, the impact on  
22 housing costs, the total statewide costs and benefits of the standard  
23 over its lifetime, economic impact on California businesses, and  
24 alternative approaches and their associated costs.

25 (2) No new appliance, except for any plumbing fitting, regulated  
26 under paragraph (1), that is manufactured on or after July 1, 1984,  
27 may be sold, or offered for sale, in the state, unless the date of the  
28 manufacture is permanently displayed in an accessible place on  
29 that appliance.

30 (3) During the period of five years after the commission has  
31 adopted a standard for a particular appliance under paragraph (1),  
32 no increase or decrease in the minimum level of operating  
33 efficiency required by the standard for that appliance shall become  
34 effective, unless the commission adopts other cost-effective  
35 measures for that appliance *or finds that the regulation is no longer*  
36 *needed.*

37 (4) Neither the commission nor any other state agency shall  
38 take any action to decrease any standard adopted under this  
39 subdivision on or before June 30, 1985, prescribing minimum  
40 levels of operating efficiency or other energy conservation

1 measures for any appliance, unless the commission finds by a  
2 four-fifths vote that a decrease is of benefit to ratepayers, and that  
3 there is significant evidence of changed circumstances. Before  
4 January 1, 1986, the commission shall not take any action to  
5 increase a standard prescribing minimum levels of operating  
6 efficiency for any appliance or adopt a new standard under  
7 paragraph (1). Before January 1, 1986, any appliance manufacturer  
8 doing business in this state shall provide directly, or through an  
9 appropriate trade or industry association, information, as specified  
10 by the commission after consultation with manufacturers doing  
11 business in the state and appropriate trade or industry associations  
12 on sales of appliances so that the commission may study the effects  
13 of regulations on those sales. These informational requirements  
14 shall remain in effect until the information is received. The trade  
15 or industry association may submit sales information in an  
16 aggregated form in a manner that allows the commission to carry  
17 out the purposes of the study. The commission shall treat any sales  
18 information of an individual manufacturer as confidential and that  
19 information shall not be a public record. The commission shall not  
20 request any information that cannot be reasonably produced in the  
21 exercise of due diligence by the manufacturer. *The commission*  
22 *shall rely on the most current data possible and, wherever feasible,*  
23 *rely on data no older than one year prior to the commencement*  
24 *of the formal rulemaking process.* At least one year prior to the  
25 adoption or amendment of a standard for an appliance, the  
26 commission shall notify the Legislature of its intent, and the  
27 justification to adopt or amend a standard for the appliance.  
28 Notwithstanding paragraph (3) and this paragraph, the commission  
29 may do any of the following:

30 (A) Increase the minimum level of operating efficiency in an  
31 existing standard up to the level of the National Voluntary  
32 Consensus Standards 90, adopted by the American Society of  
33 Heating, Refrigeration, and Air Conditioning Engineers or, for  
34 appliances not covered by that standard, up to the level established  
35 in a similar nationwide consensus standard.

36 (B) Change the measure or rating of efficiency of any standard,  
37 if the minimum level of operating efficiency remains substantially  
38 the same.

39 (C) Adjust the minimum level of operating efficiency in an  
40 existing standard in order to reflect changes in test procedures that

1 the standards require manufacturers to use in certifying compliance,  
2 if the minimum level of operating efficiency remains substantially  
3 the same.

4 (D) Readopt a standard preempted, enjoined, or otherwise found  
5 legally defective by an administrative agency or a lower court, if  
6 final legal action determines that the standard is valid and if the  
7 standard that is readopted is not more stringent than the standard  
8 that was found to be defective or preempted.

9 (E) Adopt or amend any existing or new standard at any level  
10 of operating efficiency, if the Governor has declared an energy  
11 emergency as described in Section 8558 of the Government Code.

12 (5) Notwithstanding paragraph (4), the commission may adopt  
13 standards pursuant to Commission Order No. 84-0111-1, on or  
14 before June 30, 1985.

15 (d) Recommend minimum standards of efficiency for the  
16 operation of any new facility at a particular site that are technically  
17 and economically feasible. No site and related facility shall be  
18 certified pursuant to Chapter 6 (commencing with Section 25500),  
19 unless the applicant certifies that standards recommended by the  
20 commission have been considered, which certification shall include  
21 a statement specifying the extent to which conformance with the  
22 recommended standards will be achieved.

23 Whenever this section and Chapter 11.5 (commencing with  
24 Section 19878) of Part 3 of Division 13 of the Health and Safety  
25 Code are in conflict, the commission shall be governed by that  
26 chapter of the Health and Safety Code to the extent of the conflict.

27 (e) The commission shall do all of the following:

28 (1) Not later than January 1, 2004, amend any regulations in  
29 effect on January 1, 2003, pertaining to the energy efficiency  
30 standards for residential clothes washers to require that residential  
31 clothes washers manufactured on or after January 1, 2007, be at  
32 least as water efficient as commercial clothes washers.

33 (2) Not later than April 1, 2004, petition the federal Department  
34 of Energy for an exemption from any relevant federal regulations  
35 governing energy efficiency standards that are applicable to  
36 residential clothes washers.

37 (3) Not later than January 1, 2005, report to the Legislature on  
38 its progress with respect to the requirements of paragraphs (1) and  
39 (2).

1 SECTION 1. ~~Section 25402 of the Public Resources Code is~~  
2 ~~amended to read:~~

3 ~~25402. The commission shall, after one or more public~~  
4 ~~hearings, do all of the following, in order to reduce the wasteful,~~  
5 ~~uneconomic, inefficient, or unnecessary consumption of energy,~~  
6 ~~including the energy associated with the use of water:~~

7 ~~(a) (1) Prescribe, by regulation, lighting, insulation climate~~  
8 ~~control system, and other building design and construction~~  
9 ~~standards that increase the efficiency in the use of energy and water~~  
10 ~~for new residential and new nonresidential buildings. The~~  
11 ~~commission shall periodically update the standards and adopt any~~  
12 ~~revision that, in its judgment, it deems necessary. Six months after~~  
13 ~~the commission certifies an energy conservation manual pursuant~~  
14 ~~to subdivision (c) of Section 25402.1, no city, county, city and~~  
15 ~~county, or state agency shall issue a permit for any building unless~~  
16 ~~the building satisfies the standards prescribed by the commission~~  
17 ~~pursuant to this subdivision or subdivision (b) that are in effect on~~  
18 ~~the date an application for a building permit is filed. Water~~  
19 ~~efficiency standards adopted pursuant to this subdivision shall be~~  
20 ~~demonstrated by the commission to be necessary to save energy.~~

21 ~~(2) Prior to adopting a water efficiency standard for residential~~  
22 ~~buildings, the Department of Housing and Community~~  
23 ~~Development and the commission shall issue a joint finding~~  
24 ~~whether the standard (A) is equivalent or superior in performance,~~  
25 ~~safety, and for the protection of life, health, and general welfare~~  
26 ~~to standards in Title 24 of the California Code of Regulations and~~  
27 ~~(B) does not unreasonably or unnecessarily impact the ability of~~  
28 ~~Californians to purchase or rent affordable housing, as determined~~  
29 ~~by taking account of the overall benefit derived from water~~  
30 ~~efficiency standards. Nothing in this subdivision in any way~~  
31 ~~reduces the authority of the Department of Housing and~~  
32 ~~Community Development to adopt standards and regulations~~  
33 ~~pursuant to Part 1.5 (commencing with Section 17910) of Division~~  
34 ~~13 of the Health and Safety Code.~~

35 ~~(3) Water efficiency standards and water conservation design~~  
36 ~~standards adopted pursuant to this subdivision and subdivision (b)~~  
37 ~~shall be consistent with the legislative findings of this division to~~  
38 ~~ensure and maintain a reliable supply of electrical energy and be~~  
39 ~~equivalent to or superior to the performance, safety, and protection~~  
40 ~~of life, health, and general welfare standards contained in Title 24~~

1 of the California Code of Regulations. The commission shall  
2 consult with the members of the coordinating council as established  
3 in Section 18926 of the Health and Safety Code in the development  
4 of these standards.

5 (b) (1) Prescribe, by regulation, energy and water conservation  
6 design standards for new residential and new nonresidential  
7 buildings. The standards shall be performance standards and shall  
8 be promulgated in terms of energy consumption per gross square  
9 foot of floorspace, but may also include devices, systems, and  
10 techniques required to conserve energy and water. The commission  
11 shall periodically review the standards and adopt any revision that,  
12 in its judgment, it deems necessary. A building that satisfies the  
13 standards prescribed pursuant to this subdivision need not comply  
14 with the standards prescribed pursuant to subdivision (a). Water  
15 conservation design standards adopted pursuant to this subdivision  
16 shall be demonstrated by the commission to be necessary to save  
17 energy. Prior to adopting a water conservation design standard for  
18 residential buildings, the Department of Housing and Community  
19 Development and the commission shall issue a joint finding  
20 whether the standard (A) is equivalent or superior in performance,  
21 safety, and for the protection of life, health, and general welfare  
22 to standards in the California Building Standards Code and (B)  
23 does not unreasonably or unnecessarily impact the ability of  
24 Californians to purchase or rent affordable housing, as determined  
25 by taking account of the overall benefit derived from the water  
26 conservation design standards. Nothing in this subdivision in any  
27 way reduces the authority of the Department of Housing and  
28 Community Development to adopt standards and regulations  
29 pursuant to Part 1.5 (commencing with Section 17910) of Division  
30 13 of the Health and Safety Code.

31 (2) In order to increase public participation and improve the  
32 efficacy of the standards adopted pursuant to subdivisions (a) and  
33 (b), the commission shall, prior to publication of the notice of  
34 proposed action required by Section 18935 of the Health and Safety  
35 Code, involve parties who would be subject to the proposed  
36 regulations in public meetings regarding the proposed regulations.  
37 All potential affected parties shall be provided advance notice of  
38 these meetings and given an opportunity to provide written or oral  
39 comments. During these public meetings, the commission shall  
40 receive and take into consideration input from all parties

1 concerning the parties' design recommendations, cost  
2 considerations, and other factors that would affect consumers and  
3 California businesses of the proposed standard. The commission  
4 shall take into consideration prior to the start of the notice of  
5 proposed action any input provided during these public meetings.

6 ~~(3) The standards adopted or revised pursuant to subdivisions~~  
7 ~~(a) and (b) shall be cost effective when taken in their entirety and~~  
8 ~~when amortized over the economic life of the structure compared~~  
9 ~~with historic practice. When determining cost-effectiveness, the~~  
10 ~~commission shall consider the value of the water or energy saved,~~  
11 ~~impact on product efficacy for the consumer, and the life-cycle~~  
12 ~~cost of complying with the standard. The commission shall consider~~  
13 ~~other relevant factors, as required by Sections 18930 and 18935~~  
14 ~~of the Health and Safety Code, including, but not limited to, the~~  
15 ~~impact on housing costs, the total statewide costs and benefits of~~  
16 ~~the standard over its lifetime, economic impact on California~~  
17 ~~businesses, and alternative approaches and their associated costs.~~

18 ~~(e) (1) (A) Prescribe, by regulation, standards for minimum~~  
19 ~~levels of operating efficiency for appliances, only if the commission~~  
20 ~~finds less restrictive, nonregulatory, or regulatory alternatives are~~  
21 ~~not feasible, based on a reasonable use pattern. The commission~~  
22 ~~shall prescribe these standards only if it finds that these standards~~  
23 ~~do not harm employment, competition, consumer choice, or product~~  
24 ~~innovation and utility. The commission shall prescribe these~~  
25 ~~standards only if it finds that the standards do not significantly~~  
26 ~~affect retail prices and do not burden small- and medium-sized~~  
27 ~~businesses, competition, and interstate and intrastate commerce.~~

28 ~~(B) The commission may prescribe other technologically~~  
29 ~~feasible, cost-effective measures that are designed to minimize~~  
30 ~~compliance burdens, including incentive programs, fleet averaging,~~  
31 ~~energy and water consumption labeling not preempted by federal~~  
32 ~~labeling law, and consumer education programs, to promote the~~  
33 ~~use of energy and water efficient appliances whose use, as~~  
34 ~~determined by the commission, requires a significant amount of~~  
35 ~~energy or water on a statewide basis.~~

36 ~~(C) The minimum levels of operating efficiency prescribed in~~  
37 ~~the standards shall be based on feasible and attainable efficiencies~~  
38 ~~or feasible improved efficiencies that will reduce the energy or~~  
39 ~~water consumption growth rates.~~

1     ~~(D) The standards shall become effective no sooner than two~~  
2     ~~years after the date of adoption or revision. A new appliance~~  
3     ~~manufactured on or after the effective date of the standards shall~~  
4     ~~not be sold or offered for sale in the state, unless it is certified by~~  
5     ~~the manufacturer of the appliance to be in compliance with the~~  
6     ~~standards. The standards shall be drawn so that they do not result~~  
7     ~~in any added total costs for consumers over the designed life of~~  
8     ~~the appliances concerned.~~

9     ~~(E) In order to increase public participation and improve the~~  
10    ~~efficacy of the standards adopted pursuant to this subdivision, the~~  
11    ~~commission shall, prior to publication of the notice of proposed~~  
12    ~~action required by Section 18935 of the Health and Safety Code,~~  
13    ~~involve parties who would be subject to the proposed regulations~~  
14    ~~in public meetings regarding the proposed regulations. All potential~~  
15    ~~affected parties shall be provided advance notice of these meetings~~  
16    ~~and given an opportunity to provide written or oral comments.~~  
17    ~~During these public meetings, the commission shall receive and~~  
18    ~~take into consideration input from all parties concerning the parties'~~  
19    ~~design recommendations, cost considerations, and other factors~~  
20    ~~that would affect consumers and California businesses of the~~  
21    ~~proposed standard. The commission shall take into consideration~~  
22    ~~prior to the start of the notice of proposed action any input provided~~  
23    ~~during these public meetings.~~

24    ~~(F) When retaining consultants for purposes of this subdivision,~~  
25    ~~the commission shall determine their expertise, objectivity, and~~  
26    ~~independence on the matter for which they are retained.~~

27    ~~(G) The standards adopted or revised pursuant to this subdivision~~  
28    ~~shall not result in any added total costs for consumers over the~~  
29    ~~designed life of the appliances concerned. When determining~~  
30    ~~cost-effectiveness, the commission shall consider the value of the~~  
31    ~~water or energy saved, impact on product efficacy for the~~  
32    ~~consumer, and the life-cycle cost to the consumer of complying~~  
33    ~~with the standard. For standards adopted by the commission that~~  
34    ~~become effective on and after January 1, 2013, discount rates,~~  
35    ~~payback calculations, and life cycle cost estimates shall use interest~~  
36    ~~rates that are applicable to consumer financing and shall use the~~  
37    ~~average life of the product before replacement. The commission~~  
38    ~~shall consider other relevant factors, as required by Sections~~  
39    ~~11346.5 and 11357 of the Government Code, including, but not~~  
40    ~~limited to, the impact on housing costs, the total statewide costs~~

1 and benefits of the standard over its lifetime, economic impact on  
2 California businesses and interstate commerce, and alternative  
3 approaches and their associated costs.

4 (H) Before prescribing standards for consumer electronics and  
5 information technology equipment, the commission shall conduct  
6 an additional analysis that evaluates the need and priority for those  
7 standards, prioritizes standards with a payback of three years or  
8 less, and takes into account, whether or not payback is measured  
9 under the applicable test procedures, the energy use of those  
10 products, and their functions that decrease energy use through  
11 activities such as Internet commerce, online meetings, telework,  
12 and the use of smart grid technology. The commission shall make  
13 specific findings that these standards do not burden or adversely  
14 impact those functions and activities.

15 (2) A new appliance, except for plumbing fitting, regulated  
16 under paragraph (1), that is manufactured on or after July 1, 1984,  
17 shall not be sold, or offered for sale, in the state, unless the date  
18 of the manufacture is permanently displayed in an accessible place  
19 on that appliance.

20 (3) During the period of five years after the commission has  
21 adopted a standard for a particular appliance under paragraph (1),  
22 no increase or decrease in the minimum level of operating  
23 efficiency required by the standard for that appliance shall become  
24 effective, unless the commission adopts other cost-effective  
25 measures for that appliance or finds that the regulation is no longer  
26 needed.

27 (4) Neither the commission nor any other state agency shall  
28 take any action to decrease any standard adopted under this  
29 subdivision on or before June 30, 1985, prescribing minimum  
30 levels of operating efficiency or other energy conservation  
31 measures for any appliance, unless the commission finds by a  
32 four-fifths vote that a decrease is of benefit to ratepayers, and that  
33 there is significant evidence of changed circumstances. Before  
34 January 1, 1986, the commission shall not take any action to  
35 increase a standard prescribing minimum levels of operating  
36 efficiency for any appliance or adopt a new standard under  
37 paragraph (1). Before January 1, 1986, any appliance manufacturer  
38 doing business in this state shall provide directly, or through an  
39 appropriate trade or industry association, information, as specified  
40 by the commission after consultation with manufacturers doing

1 business in the state and appropriate trade or industry associations  
2 on sales of appliances so that the commission may study the effects  
3 of regulations on those sales. These informational requirements  
4 shall remain in effect until the information is received. The trade  
5 or industry association may submit sales information in an  
6 aggregated form in a manner that allows the commission to carry  
7 out the purposes of the study. The commission shall treat any sales  
8 or other confidential or proprietary business information of an  
9 individual manufacturer as confidential and that information shall  
10 not be a public record. The commission shall not request any  
11 information that cannot be reasonably produced in the exercise of  
12 due diligence by the manufacturer. The commission shall rely on  
13 the most current data possible and, wherever feasible, rely on data  
14 no older than one year prior to the commencement of the formal  
15 rulemaking. At least one year prior to the adoption or amendment  
16 of a standard for an appliance, the commission shall notify the  
17 Legislature of its intent, and the justification to adopt or amend a  
18 standard for the appliance. Notwithstanding paragraph (3) and this  
19 paragraph, the commission may do any of the following:

20 (A) Increase the minimum level of operating efficiency in an  
21 existing standard up to the level of the National Voluntary  
22 Consensus Standards 90, adopted by the American Society of  
23 Heating, Refrigeration, and Air Conditioning Engineers or, for  
24 appliances not covered by that standard, up to the level established  
25 in a similar nationwide consensus standard.

26 (B) Change the measure or rating of efficiency of any standard,  
27 if the minimum level of operating efficiency remains substantially  
28 the same.

29 (C) Adjust the minimum level of operating efficiency in an  
30 existing standard in order to reflect changes in test procedures that  
31 the standards require manufacturers to use in certifying compliance,  
32 if the minimum level of operating efficiency remains substantially  
33 the same.

34 (D) Readopt a standard preempted, enjoined, or otherwise found  
35 legally defective by an administrative agency or a lower court, if  
36 final legal action determines that the standard is valid and if the  
37 standard that is readopted is not more stringent than the standard  
38 that was found to be defective or preempted.

1 ~~(E) Adopt or amend any existing or new standard at any level~~  
2 ~~of operating efficiency, if the Governor has declared an energy~~  
3 ~~emergency as described in Section 8558 of the Government Code.~~

4 ~~(5) Notwithstanding paragraph (4), the commission may adopt~~  
5 ~~standards pursuant to Commission Order No. 84-0111-1, on or~~  
6 ~~before June 30, 1985.~~

7 ~~(d) Recommend minimum standards of efficiency for the~~  
8 ~~operation of any new facility at a particular site that are technically~~  
9 ~~and economically feasible. No site and related facility shall be~~  
10 ~~certified pursuant to Chapter 6 (commencing with Section 25500),~~  
11 ~~unless the applicant certifies that standards recommended by the~~  
12 ~~commission have been considered, which certification shall include~~  
13 ~~a statement specifying the extent to which conformance with the~~  
14 ~~recommended standards will be achieved.~~

15 ~~Whenever this section and Chapter 11.5 (commencing with~~  
16 ~~Section 19878) of Part 3 of Division 13 of the Health and Safety~~  
17 ~~Code are in conflict, the commission shall be governed by that~~  
18 ~~chapter of the Health and Safety Code to the extent of the conflict.~~

19 ~~(e) The commission shall do all of the following:~~

20 ~~(1) Not later than January 1, 2004, amend any regulations in~~  
21 ~~effect on January 1, 2003, pertaining to the energy efficiency~~  
22 ~~standards for residential clothes washers to require that residential~~  
23 ~~clothes washers manufactured on or after January 1, 2007, be at~~  
24 ~~least as water efficient as commercial clothes washers.~~

25 ~~(2) Not later than April 1, 2004, petition the federal Department~~  
26 ~~of Energy for an exemption from any relevant federal regulations~~  
27 ~~governing energy efficiency standards that are applicable to~~  
28 ~~residential clothes washers.~~

29 ~~(3) Not later than January 1, 2005, report to the Legislature on~~  
30 ~~its progress with respect to the requirements of paragraphs (1) and~~  
31 ~~(2).~~