

CHAPTER 81—ENERGY CONSERVATION AND RESOURCE RENEWAL

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SUBCHAPTER I—ELECTRIC UTILITY RATE DESIGN INITIATIVES

§ 6801. Congressional findings and purpose

(a) The Congress finds that improvement in electric utility rate design has great potential for reducing the cost of electric utility services to consumers and current and projected shortages of capital, and for encouraging energy conservation and better use of existing electrical generating facilities.

(b) It is the purpose of this subchapter to require the Secretary to develop proposals for improvement of electric utility rate design and transmit such proposals to Congress; to fund electric utility rate demonstration projects; to intervene or participate, upon request, in the proceedings of utility regulatory commissions; and to provide financial assistance to State offices of consumer services to facilitate presentation of consumer interests before such commissions.

(Pub. L. 94-385, title II, §201, Aug. 14, 1976, 90 Stat. 1142; Pub. L. 95-91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607.)

SHORT TITLE

Section 1 of Pub. L. 94-385 provided: "That this Act [enacting this chapter, section 6327 of this title, section 1701z-8 of Title 12, Banks and Banking, sections 787 and 790 to 790h of Title 15, Commerce and Trade, amending sections 5818, 6211, 6295, 6323, 6325, and 6326 of this title and sections 757, 764, 766, 772, 774, 777 and 784 of Title 15, and enacting provisions set out as notes under sections 6801, 6831, and 6851 of this title, and sections 753, 757, 761, and 790 of Title 15] may be cited as the 'Energy Conservation and Production Act'."

Section 301 of title III of Pub. L. 94-385 provided that: "This title [enacting subchapter II of this chapter] may be cited as the 'Energy Conservation Standards for New Buildings Act of 1976'."

Section 401 of title IV of Pub. L. 94-385 provided that: "This title [enacting subchapter III of this chapter, section 6327 of this title, and section 1701z-8 of Title 12, Banks and Banking, and amending sections 6323, 6325, and 6326 of this title] may be cited as the 'Energy Conservation in Existing Buildings Act of 1976'."

TRANSFER OF FUNCTIONS

"Secretary", meaning Secretary of Energy, substituted for "Federal Energy Administration" in subsec. (b) pursuant to sections 301(a), 703, and 707 of Pub. L. 95-91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Federal Energy Administration and transferred its functions (with certain exceptions) to Secretary of Energy.

§ 6802. Definitions

As used in this subchapter:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "electric utility" means any person, State agency, or Federal agency which sells electric energy.

(3) The term "Federal agency" means any agency or instrumentality of the United States.

(4) The term "State agency" means a State, political subdivision thereof, or any agency or instrumentality of either.

(5) The term "State utility regulatory commission" means (A) any utility regulatory commission which is a State agency or (B) the Tennessee Valley Authority.

(6) The term "State" means any State, the District of Columbia, Puerto Rico, and any territory or possession of the United States.

(7) The term "utility regulatory commission" means any State agency or Federal agency which has authority to fix, modify, approve, or disapprove rates for the sale of electric energy by any electric utility (other than by such agency).

(Pub. L. 94-385, title II, §202, Aug. 14, 1976, 90 Stat. 1142; Pub. L. 95-617, title I, §143, Nov. 9, 1978, 92 Stat. 3134.)

AMENDMENTS

1978—Par. (1). Pub. L. 95-617 substituted "The term 'Secretary' means the Secretary of Energy" for "The term 'Administrator' means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this subchapter".

§ 6803. Development of electric utility rate design proposals by Secretary; contents; submission to Congress; supporting analysis

(a) The Secretary shall develop proposals to improve electric utility rate design. Such proposals shall be designed to encourage energy conservation, minimize the need for new electrical generating capacity, and minimize costs of electric energy to consumers, and shall include (but not be limited to) proposals which provide for the development and implementation of—

- (1) load management techniques which are cost effective;

(2) rates which reflect marginal cost of service, or time of use of service, or both;

(3) ratemaking policies which discourage inefficient use of fuel and encourage economical purchases of fuel; and

(4) rates (or other regulatory policies) which encourage electric utility system reliability and reliability of major items of electric utility equipment.

(b) The proposals prepared under subsection (a) of this section shall be transmitted to each House of Congress not later than 6 months after August 14, 1976, for review and for such further action as the Congress may direct by law. Such proposals shall be accompanied by an analysis of—

(1) the projected savings (if any) in consumption of petroleum products, natural gas, electric energy, and other energy resources,

(2) the reduction (if any) in the need for new electrical generating capacity, and of the demand for capital by the electric utility industry, and

(3) changes (if any) in the cost of electric energy to consumers,

which are likely to result from the implementation nationally of each of the proposals transmitted under this subsection.

(Pub. L. 94-385, title II, §203, Aug. 14, 1976, 90 Stat. 1143; Pub. L. 95-617, title I, §143, Nov. 9, 1978, 92 Stat. 3134.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-617 substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration.

§ 6804. Funding, administrative, and judicial authorities of Secretary

The Secretary may—

(1) fund (A) demonstration projects to improve electric utility load management procedures and (B) regulatory rate reform initiatives,

(2) on request of a State, a utility regulatory commission, or of any participant in any proceeding before a State utility regulatory commission which relates to electric utility rates or rate design, intervene and participate in such proceeding, and

(3) on request of any State, utility regulatory commission, or party to any action to obtain judicial review of an administrative proceeding in which the Secretary intervened or participated under paragraph (2), intervene and participate in such action.

(Pub. L. 94-385, title II, §204, Aug. 14, 1976, 90 Stat. 1143; Pub. L. 95-617, title I, §143, Nov. 9, 1978, 92 Stat. 3134.)

AMENDMENTS

1978—Pub. L. 95-617 substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration in two places.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6808 of this title; title 16 section 2633.

§ 6805. Grants for State consumer protection offices by Secretary

(a) Establishment, operation, and purpose; qualifications for funds

The Secretary may make grants to States, or otherwise as provided in subsection (c) of this section, under this section to provide for the establishment and operation of offices of consumer services to assist consumers in their presentations before utility regulatory commissions. Any assistance provided under this section shall be provided only for an office of consumer services which is operated independently of any such utility regulatory commission and which is empowered to—

(1) make general factual assessments of the impact of proposed rate changes and other proposed regulatory actions upon all affected consumers;

(2) assist consumers in the presentation of their positions before utility regulatory commissions; and

(3) advocate, on its own behalf, a position which it determines represents the position most advantageous to consumers, taking into account developments in rate design reform.

(b) Grants subject to State assurances on funds

Grants pursuant to subsection (a) of this section shall be made only to States which furnish such assurances as the Secretary may require that funds made available under such section will be in addition to, and not in substitution for, funds made available to offices of consumer services from other sources.

(c) Offices established by Tennessee Valley Authority

Assistance may be provided under this section to an office of consumer services established by the Tennessee Valley Authority, if such office is operated independently of the Tennessee Valley Authority.

(Pub. L. 94-385, title II, §205, Aug. 14, 1976, 90 Stat. 1144; Pub. L. 95-617, title I, §143, Nov. 9, 1978, 92 Stat. 3134.)

AMENDMENTS

1978—Subsecs. (a), (b). Pub. L. 95-617 substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6808 of this title.

§ 6806. Statement in annual report

The Secretary shall include in each annual report submitted under section 7267 of this title a statement with respect to activities conducted under this subchapter and recommendations as to the need for and types of further Federal legislation.

(Pub. L. 94-385, title II, §206, Aug. 14, 1976, 90 Stat. 1144; Pub. L. 95-617, title I, §143, Nov. 9, 1978, 92 Stat. 3134; Pub. L. 96-470, title II, §203(g), Oct. 19, 1980, 94 Stat. 2243.)

AMENDMENTS

1980—Pub. L. 96-470 substituted “The Secretary shall include in each annual report submitted under section

7267 of this title a statement” for “Not later than the last day in December in each year, the Secretary shall transmit to the Congress a report”.

1978—Pub. L. 95-617 substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration.

§ 6807. State utility regulatory assistance

(a) Grants to State utility regulatory commissions and nonregulated electric utilities

The Secretary may make grants to State utility regulatory commissions and nonregulated electric utilities (as defined in the Public Utility Regulatory Policies Act of 1978 [16 U.S.C. 2602]) to carry out duties and responsibilities under titles I [16 U.S.C. 2601 et seq.] and III [15 U.S.C. 3201 et seq.], and section 210 [16 U.S.C. 824a-3], of the Public Utility Regulatory Policies Act of 1978. No grant may be made under this section to any Federal agency.

(b) Unnecessary requirements prohibited

Any requirements established by the Secretary with respect to grants under this section may be only such requirements as are necessary to assure that such grants are expended solely to carry out duties and responsibilities referred to in subsection (a) of this section or such as are otherwise required by law.

(c) Application for grant

No grant may be made under this section unless an application for such grant is submitted to the Secretary in such form and manner as the Secretary may require. The Secretary may not approve an application of a State utility regulatory commission or nonregulated electric utility unless such commission or nonregulated electric utility assures the Secretary that funds made available under this section will be in addition to, and not in substitution for, funds made available to such commission or nonregulated electric utility from other governmental sources.

(d) Apportionment of funds

The funds appropriated for purposes of this section shall be apportioned among the States in such manner that grants made under this section in each State shall not exceed the lesser of—

- (1) the amount determined by dividing equally among all States the total amount available under this section for such grants, or
- (2) the amount which the Secretary is authorized to provide pursuant to subsections (b) and (c) of this section for such State.

(Pub. L. 94-385, title II, §207, Aug. 14, 1976, 90 Stat. 1144; Pub. L. 95-617, title I, §141, Nov. 9, 1978, 92 Stat. 3133.)

REFERENCES IN TEXT

The Public Utility Regulatory Policies Act of 1978, referred to in subsec. (a), is Pub. L. 95-617, Nov. 9, 1978, 92 Stat. 3117, as amended. Title I of such Act is classified principally to chapter 46 (§2601 et seq.) of Title 16, Conservation, and title III of such Act is classified generally to chapter 59 (§3201 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 16 and Tables.

AMENDMENTS

1978—Pub. L. 95-617 substituted provisions relating to grants to State utility regulatory commissions and

nonregulated electric utilities for provisions authorizing appropriations to carry out this subchapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6808 of this title.

§ 6807a. Energy efficiency grants to State regulatory authorities

(a) Energy efficiency grants

The Secretary is authorized in accordance with the provisions of this section to provide grants to State regulatory authorities in an amount not to exceed \$250,000 per authority, for purposes of encouraging demand-side management including energy conservation, energy efficiency and load management techniques and for meeting the requirements of paragraphs (7), (8), and (9) of section 2621(d) of title 16 and as a means of meeting gas supply needs and to meet the requirements of paragraphs (3) and (4) of section 3203(b) of title 15. Such grants may be utilized by a State regulatory authority to provide financial assistance to nonprofit subgrantees of the Department of Energy’s Weatherization Assistance Program in order to facilitate participation by such subgrantees in proceedings of such regulatory authority to examine energy conservation, energy efficiency, or other demand-side management programs.

(b) Plan

A State regulatory authority wishing to receive a grant under this section shall submit a plan to the Secretary that specifies the actions such authority proposes to take that would achieve the purposes of this section.

(c) Secretarial action

(1) In determining whether, and in what amount, to provide a grant to a State regulatory authority under this section the Secretary shall consider, in addition to other appropriate factors, the actions proposed by the State regulatory authority to achieve the purposes of this section and to consider implementation of the ratemaking standards established in—

- (A) paragraphs (7), (8) and (9) of section 2621(d) of title 16; or
- (B) paragraphs (3) and (4) of section 3203(b) of title 15.

(2) Such actions—

- (A) shall include procedures to facilitate the participation of grantees and nonprofit subgrantees of the Department of Energy’s Weatherization Assistance Program in proceedings of such regulatory authorities examining demand-side management programs; and
- (B) shall provide for coverage of the cost of such grantee and subgrantees’ participation in such proceedings.

(d) Recordkeeping

Each State regulatory authority that receives a grant under this section shall keep such records as the Secretary shall require.

(e) “State regulatory authority” defined

For purposes of this section, the term “State regulatory authority” shall have the same meaning as provided by section 2602 of title 16 in the case of electric utilities, and such term shall have the same meaning as provided by section

3202 of title 15 in the case of gas utilities, except that in the case of any State without a state-wide ratemaking authority, such term shall mean the State energy office.

(f) Authorization

There are authorized to be appropriated \$5,000,000 for each of the fiscal years 1994, 1995 and 1996 to carry out the purposes of this section.

(Pub. L. 102-486, title I, §112, Oct. 24, 1992, 106 Stat. 2797.)

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the Energy Conservation and Production Act which comprises this chapter.

§ 6808. Authorization of appropriations

There are authorized to be appropriated—

(1) not to exceed \$40,000,000 for each of the fiscal years 1979 and 1980 to carry out section 6807 of this title (relating to State utility regulatory assistance);

(2) not to exceed \$10,000,000 for each of the fiscal years 1979 and 1980 to carry out section 6805 of this title (relating to State offices of consumer services); and

(3) not to exceed \$8,000,000 for the fiscal year 1979, and \$10,000,000 for the fiscal year 1980 to carry out section 6804(1)(B) of this title (relating to innovative rate structures).

(Pub. L. 94-385, title II, §208, as added Pub. L. 95-617, title II, §142, Nov. 9, 1978, 92 Stat. 3134.)

SUBCHAPTER II—ENERGY CONSERVATION STANDARDS FOR NEW BUILDINGS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 7154 of this title.

§ 6831. Congressional findings and purpose

(a) The Congress finds that—

(1) large amounts of fuel and energy are consumed unnecessarily each year in heating, cooling, ventilating, and providing domestic hot water for newly constructed residential and commercial buildings because such buildings lack adequate energy conservation features;

(2) Federal voluntary performance standards for newly constructed buildings can prevent such waste of energy, which the Nation can no longer afford in view of its current and anticipated energy shortage;

(3) the failure to provide adequate energy conservation measures in newly constructed buildings increases long-term operating costs that may affect adversely the repayment of, and security for, loans made, insured, or guaranteed by Federal agencies or made by federally insured or regulated instrumentalities; and

(4) State and local building codes or similar controls can provide an existing means by which to assure, in coordination with other building requirements and with a minimum of Federal interference in State and local transactions, that newly constructed buildings contain adequate energy conservation features.

(b) The purposes of this subchapter, therefore, are to—

(1) redirect Federal policies and practices to assure that reasonable energy conservation features will be incorporated into new commercial and residential buildings receiving Federal financial assistance;

(2) provide for the development and implementation, as soon as practicable, of voluntary performance standards for new residential and commercial buildings which are designed to achieve the maximum practicable improvements in energy efficiency and increases in the use of nondepletable sources of energy; and

(3) encourage States and local governments to adopt and enforce such standards through their existing building codes and other construction control mechanisms, or to apply them through a special approval process.

(Pub. L. 94-385, title III, §302, Aug. 14, 1976, 90 Stat. 1144; Pub. L. 97-35, title X, §1041(a), Aug. 13, 1981, 95 Stat. 621.)

AMENDMENTS

1981—Subsecs. (a)(2), (b)(2). Pub. L. 97-35 inserted “voluntary” before “performance standards”.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1038 of Pub. L. 97-35, set out as a note under section 6240 of this title.

SHORT TITLE

For short title of this subchapter as the “Energy Conservation Standards for New Buildings Act of 1976”, see section 301 of Pub. L. 94-385, set out as a note under section 6801 of this title.

CROSS REFERENCES

Energy conservation in Federal buildings, see section 8251 et seq. of this title.

Residential energy conservation, see section 8211 et seq. of this title.

§ 6832. Definitions

As used in this subchapter:

(1) Omitted

(2) The term “building” means any structure to be constructed which includes provision for a heating or cooling system, or both, or for a hot water system.

(3) The term “building code” means a legal instrument which is in effect in a State or unit of general purpose local government, the provisions of which must be adhered to if a building is to be considered to be in conformance with law and suitable for occupancy and use.

(4) The term “commercial building” means any building other than a residential building, including any building developed for industrial or public purposes.

(5) The term “Federal agency” means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, including the United States Postal Service, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

(6) The term “Federal building” means any building to be constructed by, or for the use

of, any Federal agency which is not legally subject to State or local building codes or similar requirements.

(7) The term "Federal financial assistance" means (A) any form of loan, grant, guarantee, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistance (other than general or special revenue sharing or formula grants made to States) approved by any Federal officer or agency; or (B) any loan made or purchased by any bank, savings and loan association, or similar institution subject to regulation by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration.

(8) The term "National Institute of Building Sciences" means the institute established by section 1701j-2 of title 12.

(9) The term "residential building" means any structure which is constructed and developed for residential occupancy.

(10) The term "Secretary" means the Secretary of Energy.

(11) The term "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory and possession of the United States.

(12) The term "unit of general purpose local government" means any city, county, town, municipality, or other political subdivision of a State (or any combination thereof), which has a building code or similar authority over a particular geographic area.

(13) The term "Federal building energy standards" means energy consumption objectives to be met without specification of the methods, materials, or equipment to be employed in achieving those objectives, but including statements of the requirements, criteria, and evaluation methods to be used, and any necessary commentary.

(14) The term "voluntary building energy code" means a building energy code developed and updated through a consensus process among interested persons, such as that used by the Council of American Building Officials; the American Society of Heating, Refrigerating, and Air-Conditioning Engineers; or other appropriate organizations.

(15) The term "CABO" means the Council of American Building Officials.

(16) The term "ASHRAE" means the American Society of Heating, Refrigerating, and Air-Conditioning Engineers.

(Pub. L. 94-385, title III, §303, Aug. 14, 1976, 90 Stat. 1145; Pub. L. 95-91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 97-35, title X, §1041(a), Aug. 13, 1981, 95 Stat. 621; Pub. L. 100-242, title V, §570(c), Feb. 5, 1988, 101 Stat. 1950; Pub. L. 102-486, title I, §101(a)(1), Oct. 24, 1992, 106 Stat. 2782.)

CODIFICATION

Par. (1) of this section which read "The term 'Administrator' means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of

the United States designated by the President for purposes of this subchapter" has been omitted in view of the termination of the Federal Energy Administration and the transfer of its functions and the functions of the Administrator thereof (with certain exceptions) to the Secretary of Energy pursuant to sections 301(a), 703, and 707 of Pub. L. 95-91, which are classified to sections 7151(a), 7293, and 7297 of this title and the fact that the term "Secretary" is defined for the purposes of this subchapter by par. (10) of this section. In this subchapter, "Secretary of Energy" has been substituted for "Administrator" wherever appearing.

AMENDMENTS

1992—Pars. (9) to (16). Pub. L. 102-486 redesignated pars. (10) to (13) as (9) to (12), respectively, added pars. (13) to (16), and struck out former par. (9) which read as follows: "The term 'voluntary performance standards' means an energy consumption goal or goals to be met without specification of the methods, materials, and processes to be employed in achieving that goal or goals, but including statements of the requirements, criteria and evaluation methods to be used, and any necessary commentary."

1988—Par. (11). Pub. L. 100-242 substituted "Secretary of Energy" for "Secretary of Housing and Urban Development".

1981—Par. (9). Pub. L. 97-35 inserted "voluntary" before "performance standards".

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1038 of Pub. L. 97-35, set out as a note under section 6240 of this title.

TRANSFER OF FUNCTIONS

Federal Savings and Loan Insurance Corporation and Federal Home Loan Bank Board abolished and functions transferred, see sections 401 to 406 of Pub. L. 101-73, set out as a note under section 1437 of Title 12, Banks and Banking.

§ 6833. Updating State building energy efficiency codes

(a) Consideration and determination respecting residential building energy codes

(1) Not later than 2 years after October 24, 1992, each State shall certify to the Secretary that it has reviewed the provisions of its residential building code regarding energy efficiency and made a determination as to whether it is appropriate for such State to revise such residential building code provisions to meet or exceed CABO Model Energy Code, 1992.

(2) The determination referred to in paragraph (1) shall be—

(A) made after public notice and hearing;

(B) in writing;

(C) based upon findings included in such determination and upon the evidence presented at the hearing; and

(D) available to the public.

(3) Each State may, to the extent consistent with otherwise applicable State law, revise the provisions of its residential building code regarding energy efficiency to meet or exceed CABO Model Energy Code, 1992, or may decline to make such revisions.

(4) If a State makes a determination under paragraph (1) that it is not appropriate for such State to revise its residential building code, such State shall submit to the Secretary, in writing, the reasons for such determination, and such statement shall be available to the public.

(5)(A) Whenever CABO Model Energy Code, 1992,¹ (or any successor of such code) is revised, the Secretary shall, not later than 12 months after such revision, determine whether such revision would improve energy efficiency in residential buildings. The Secretary shall publish notice of such determination in the Federal Register.

(B) If the Secretary makes an affirmative determination under subparagraph (A), each State shall, not later than 2 years after the date of the publication of such determination, certify that it has reviewed the provisions of its residential building code regarding energy efficiency and made a determination as to whether it is appropriate for such State to revise such residential building code provisions to meet or exceed the revised code for which the Secretary made such determination.

(C) Paragraphs (2), (3), and (4) shall apply to any determination made under subparagraph (B).

(b) Certification of commercial building energy code updates

(1) Not later than 2 years after October 24, 1992, each State shall certify to the Secretary that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency. Such certification shall include a demonstration that such State's code provisions meet or exceed the requirements of ASHRAE Standard 90.1-1989.

(2)(A) Whenever the provisions of ASHRAE Standard 90.1-1989 (or any successor standard) regarding energy efficiency in commercial buildings are revised, the Secretary shall, not later than 12 months after the date of such revision, determine whether such revision will improve energy efficiency in commercial buildings. The Secretary shall publish a notice of such determination in the Federal Register.

(B)(i) If the Secretary makes an affirmative determination under subparagraph (A), each State shall, not later than 2 years after the date of the publication of such determination, certify that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency in accordance with the revised standard for which such determination was made. Such certification shall include a demonstration that the provisions of such State's commercial building code regarding energy efficiency meet or exceed such revised standard.

(ii) If the Secretary makes a determination under subparagraph (A) that such revised standard will not improve energy efficiency in commercial buildings, State commercial building code provisions regarding energy efficiency shall meet or exceed ASHRAE Standard 90.1-1989, or if such standard has been revised, the last revised standard for which the Secretary has made an affirmative determination under subparagraph (A).

(c) Extensions

The Secretary shall permit extensions of the deadlines for the certification requirements under subsections (a) and (b) of this section if a State can demonstrate that it has made a good

faith effort to comply with such requirements and that it has made significant progress in doing so.

(d) Technical assistance

The Secretary shall provide technical assistance to States to implement the requirements of this section, and to improve and implement State residential and commercial building energy efficiency codes or to otherwise promote the design and construction of energy efficient buildings.

(e) Availability of incentive funding

(1) The Secretary shall provide incentive funding to States to implement the requirements of this section, and to improve and implement State residential and commercial building energy efficiency codes. In determining whether, and in what amount, to provide incentive funding under this subsection, the Secretary shall consider the actions proposed by the State to implement the requirements of this section, to improve and implement residential and commercial building energy efficiency codes, and to promote building energy efficiency through the use of such codes.

(2) There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(Pub. L. 94-385, title III, §304, as added Pub. L. 102-486, title I, §101(a)(2), Oct. 24, 1992, 106 Stat. 2783.)

PRIOR PROVISIONS

A prior section 6833, Pub. L. 94-385, title III, §304, Aug. 14, 1976, 90 Stat. 1146; Pub. L. 95-91, title III, §§301(a), 304(a), title VII, §§703, 707, 709(e)(1), Aug. 4, 1977, 91 Stat. 577, 580, 606, 608; Pub. L. 96-399, title III, §326(a)-(c), Oct. 8, 1980, 94 Stat. 1649; Pub. L. 97-35, title X, §1041(a), (c), Aug. 13, 1981, 95 Stat. 621; Pub. L. 100-418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433, related to development and promulgation of energy conservation voluntary performance standards for new commercial and residential buildings, prior to repeal by Pub. L. 102-486, title I, §101(a)(2), Oct. 24, 1992, 106 Stat. 2783.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7154, 8235 of this title.

§ 6834. Federal building energy efficiency standards

(a) In general

(1) Not later than 2 years after October 24, 1992, the Secretary, after consulting with appropriate Federal agencies, CABO, ASHRAE, the National Association of Home Builders, the Illuminating Engineering Society, the American Institute of Architects, the National Conference of the States on Building Codes and Standards, and other appropriate persons, shall establish, by rule, Federal building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. Such standards shall become effective no later than 1 year after such rule is issued.

(2) The standards established under paragraph (1) shall—

(A) contain energy saving and renewable energy specifications that meet or exceed the en-

¹ So in original. The comma probably should not appear.

ergy saving and renewable energy specifications of CABO Model Energy Code, 1992 (in the case of residential buildings) or ASHRAE Standard 90.1-1989 (in the case of commercial buildings);

(B) to the extent practicable, use the same format as the appropriate voluntary building energy code; and

(C) consider, in consultation with the Environmental Protection Agency and other Federal agencies, and where appropriate contain, measures with regard to radon and other indoor air pollutants.

(b) Report on comparative standards

The Secretary shall identify and describe, in the report required under section 6837 of this title, the basis for any substantive difference between the Federal building energy standards established under this section (including differences in treatment of energy efficiency and renewable energy) and the appropriate voluntary building energy code.

(c) Periodic review

The Secretary shall periodically, but not less than once every 5 years, review the Federal building energy standards established under this section and shall, if significant energy savings would result, upgrade such standards to include all new energy efficiency and renewable energy measures that are technologically feasible and economically justified.

(d) Interim standards

Interim energy performance standards for new Federal buildings issued by the Secretary under this subchapter as it existed before October 24, 1992, shall remain in effect until the standards established under subsection (a) of this section become effective.

(Pub. L. 94-385, title III, §305, as added Pub. L. 102-486, title I, §101(a)(2), Oct. 24, 1992, 106 Stat. 2784.)

PRIOR PROVISIONS

A prior section 6834, Pub. L. 94-385, title III, §305, Aug. 14, 1976, 90 Stat. 1147, related to availability or approval of Federal financial assistance for new construction, prior to repeal by Pub. L. 97-35, title X, §1041(b), Aug. 13, 1981, 95 Stat. 621.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6835 of this title.

§ 6835. Federal compliance

(a) Procedures

(1) The head of each Federal agency shall adopt procedures necessary to assure that new Federal buildings meet or exceed the Federal building energy standards established under section 6834 of this title.

(2) The Federal building energy standards established under section 6834 of this title shall apply to new buildings under the jurisdiction of the Architect of the Capitol. The Architect shall adopt procedures necessary to assure that such buildings meet or exceed such standards.

(b) Construction of new buildings

The head of a Federal agency may expend Federal funds for the construction of a new Federal

building only if the building meets or exceeds the appropriate Federal building energy standards established under section 6834 of this title.

(Pub. L. 94-385, title III, §306, as added Pub. L. 102-486, title I, §101(a)(2), Oct. 24, 1992, 106 Stat. 2785.)

PRIOR PROVISIONS

A prior section 6835, Pub. L. 94-385, title III, §306, Aug. 14, 1976, 90 Stat. 1148; Pub. L. 96-399, title III, §326(d), Oct. 8, 1980, 94 Stat. 1650; Pub. L. 97-35, title X, §1041(d), Aug. 13, 1981, 95 Stat. 621, related to compliance with final performance standards by Federal agencies, prior to repeal by Pub. L. 102-486, title I, §101(a)(2), Oct. 24, 1992, 106 Stat. 2783.

§ 6836. Support for voluntary building energy codes

(a) In general

Not later than 1 year after October 24, 1992, the Secretary, after consulting with the Secretary of Housing and Urban Development, the Secretary of Veterans Affairs, other appropriate Federal agencies, CABO, ASHRAE, the National Conference of States on Building Codes and Standards, and any other appropriate building codes and standards organization, shall support the upgrading of voluntary building energy codes for new residential and commercial buildings. Such support shall include—

(1) a compilation of data and other information regarding building energy efficiency standards and codes in the possession of the Federal Government, State and local governments, and industry organizations;

(2) assistance in improving the technical basis for such standards and codes;

(3) assistance in determining the cost-effectiveness and the technical feasibility of the energy efficiency measures included in such standards and codes; and

(4) assistance in identifying appropriate measures with regard to radon and other indoor air pollutants.

(b) Review

The Secretary shall periodically review the technical and economic basis of voluntary building energy codes and, based upon ongoing research activities—

(1) recommend amendments to such codes including measures with regard to radon and other indoor air pollutants;

(2) seek adoption of all technologically feasible and economically justified energy efficiency measures; and

(3) otherwise participate in any industry process for review and modification of such codes.

(Pub. L. 94-385, title III, §307, as added Pub. L. 102-486, title I, §101(a)(2), Oct. 24, 1992, 106 Stat. 2785.)

PRIOR PROVISIONS

A prior section 6836, Pub. L. 94-385, title III, §307, Aug. 14, 1976, 90 Stat. 1149; Pub. L. 95-619, title II, §255, Nov. 9, 1978, 92 Stat. 3238, set forth provisions respecting grants to States for adoption and implementation of performance standards, prior to repeal by Pub. L. 97-35, title X, §1041(b), Aug. 13, 1981, 95 Stat. 621.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6837 of this title.

§ 6837. Reports

The Secretary, in consultation with the Secretary of Housing and Urban Development, the Secretary of Veterans Affairs, and other appropriate Federal agencies, shall report annually to the Congress on activities conducted pursuant to this subchapter. Such report shall include—

- (1) recommendations made under section 6836(b) of this title regarding the prevailing voluntary building energy codes;
- (2) a State-by-State summary of actions taken under this subchapter; and
- (3) recommendations to the Congress with respect to opportunities to further promote building energy efficiency and otherwise carry out the purposes of this subchapter.

(Pub. L. 94-385, title III, §308, as added Pub. L. 102-486, title I, §101(a)(2), Oct. 24, 1992, 106 Stat. 2786.)

PRIOR PROVISIONS

A prior section 6837, Pub. L. 94-385, title III, §308, Aug. 14, 1976, 90 Stat. 1149; Pub. L. 97-35, title X, §1041(e), Aug. 13, 1981, 95 Stat. 621, related to technical assistance to States, etc., prior to repeal by Pub. L. 102-486, §101(a)(2).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6834 of this title.

§§ 6838 to 6840. Repealed. Pub. L. 102-486, title I, § 101(a)(2), Oct. 24, 1992, 106 Stat. 2783

Section 6838, Pub. L. 94-385, title III, §309, Aug. 14, 1976, 90 Stat. 1149; Pub. L. 97-35, title X, §1041(a), Aug. 13, 1981, 95 Stat. 621, related to consultations by Secretary with interested and affected groups in developing and promulgating voluntary performance standards and establishment of advisory committees.

Section 6839, Pub. L. 94-385, title III, §310, Aug. 14, 1976, 90 Stat. 1149; Pub. L. 95-91, title III, §§301(a), 304(a), title VII, §§703, 707, 709(e)(2), Aug. 4, 1977, 91 Stat. 577, 580, 606, 607, 608; Pub. L. 97-35, title X, §1041(a), Aug. 13, 1981, 95 Stat. 621; Pub. L. 100-418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433, related to support activities necessary or appropriate to develop and implement voluntary performance standards.

Section 6840, Pub. L. 94-385, title III, §311, Aug. 14, 1976, 90 Stat. 1149; Pub. L. 97-375, title II, §207(b), Dec. 21, 1982, 96 Stat. 1824, related to monitoring of State and local adoption and implementation of standards and reports to Congress on implementation and effectiveness of standards.

SUBCHAPTER III—ENERGY CONSERVATION AND RENEWABLE-RESOURCE ASSISTANCE FOR EXISTING BUILDINGS**SUBCHAPTER REFERRED TO IN OTHER SECTIONS**

This subchapter is referred to in section 8624 of this title.

§ 6851. Congressional findings and purpose

(a) The Congress finds that—

- (1) the fastest, most cost-effective, and most environmentally sound way to prevent future energy shortages in the United States, while reducing the Nation's dependence on imported energy supplies, is to encourage and facilitate, through major programs, the implementation of energy conservation and renewable-resource energy measures with respect to dwelling units, nonresidential buildings, and industrial plants;

(2) current efforts to encourage and facilitate such measures are inadequate as a consequence of—

(A) a lack of adequate and available financing for such measures, particularly with respect to individual consumers and owners of small businesses;

(B) a shortage of reliable and impartial information and advisory services pertaining to practicable energy conservation measures and renewable-resource energy measures and the cost savings that are likely if they are implemented in such units, buildings, and plants; and

(C) the absence of organized programs which, if they existed, would enable consumers, especially individuals and owners of small businesses, to undertake such measures easily and with confidence in their economic value;

(3) major programs of financial incentives and assistance for energy conservation measures and renewable-resource energy measures in dwelling units, nonresidential buildings, and industrial plants would—

(A) significantly reduce the Nation's demand for energy and the need for petroleum imports;

(B) cushion the adverse impact of the high price of energy supplies on consumers, particularly elderly and handicapped low-income persons who cannot afford to make the modifications necessary to reduce their residential energy use; and

(C) increase, directly and indirectly, job opportunities and national economic output;

(4) the primary responsibility for the implementation of such major programs should be lodged with the governments of the States; the diversity of conditions among the various States and regions of the Nation is sufficiently great that a wholly federally administered program would not be as effective as one which is tailored to meet local requirements and to respond to local opportunities; the State should be allowed flexibility within which to fashion such programs, subject to general Federal guidelines and monitoring sufficient to protect the financial investments of consumers and the financial interest of the United States and to insure that the measures undertaken in fact result in significant energy and cost savings which would probably not otherwise occur;

(5) to the extent that direct Federal administration is more economical and efficient, direct Federal financial incentives and assistance should be extended through existing and proven Federal programs rather than through new programs that would necessitate new and separate administrative bureaucracies; and

(6) such programs should be designed and administered to supplement, and not to supplant or in any other way conflict with, State energy conservation programs under part C of title III of the Energy Policy and Conservation Act [42 U.S.C. 6321 et seq.]; the emergency energy conservation program carried out by community action agencies pursuant to sec-

tion 2809(a)(12)¹ of this title; and other forms of assistance and encouragement for energy conservation.

(b) It is, therefore, the purpose of this subchapter to encourage and facilitate the implementation of energy conservation measures and renewable-resource energy measures in dwelling units, nonresidential buildings, and industrial plants, through—

- (1) supplemental State energy conservation plans; and
- (2) Federal financial incentives and assistance.

(Pub. L. 94-385, title IV, §402, Aug. 14, 1976, 90 Stat. 1150.)

REFERENCES IN TEXT

The Energy Policy and Conservation Act, referred to in subsec. (a)(5), is Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, as amended. Part C of title III of the Energy Policy and Conservation Act is classified generally to part B (§6321 et seq.) of subchapter III of chapter 77 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

Section 2809(a)(12) of this title, referred to in subsec. (a)(6), which was redesignated as section 2809(a)(5) by Pub. L. 95-568, §5(a)(2)(E), Nov. 2, 1978, 92 Stat. 2426, was subsequently repealed by Pub. L. 97-35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519.

This subchapter, referred to in subsec. (b), was in the original “this title,” meaning title IV of Pub. L. 94-385, known as the Energy Conservation in Existing Buildings Act of 1976, which enacted this subchapter, section 6327 of this title, and section 1701z-8 of Title 12, Banks and Banking, amended sections 6323, 6325, and 6326 of this title, and enacted provisions set out as a note under section 6801 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of this title and Tables.

SHORT TITLE

For short title of title IV of Pub. L. 94-385, which is classified principally to this subchapter, as the “Energy Conservation in Existing Buildings Act of 1976”, see section 401 of Pub. L. 94-385, set out as a note under section 6801 of this title.

CROSS REFERENCES

Energy conservation in Federal buildings, see section 8251 et seq. of this title.

Residential energy conservation, see section 8211 et seq. of this title.

PART A—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1474, 3013, 6325, 6873, 8626b, 12807 of this title; title 15 section 4507; title 31 section 3803.

§ 6861. Congressional findings and purpose

(a) The Congress finds that—

- (1) a fast, cost-effective, and environmentally sound way to prevent future energy shortages in the United States while reducing the Nation's dependence on imported energy supplies, is to encourage and facilitate, through major programs, the implementation of energy conservation and renewable-resource energy measures with respect to dwelling units;

(2) existing efforts to encourage and facilitate such measures are inadequate because—

- (A) many dwellings owned or occupied by low-income persons are energy inefficient;
- (B) low-income persons can least afford to make the modifications necessary to provide for efficient energy equipment in such dwellings and otherwise to improve the energy efficiency of such dwellings;

(3) weatherization of such dwellings would lower shelter costs in dwellings owned or occupied by low-income persons as well as save energy and reduce future energy capacity requirements; and

(4) States, through Community Action Agencies established under the Economic Opportunity Act of 1964 [42 U.S.C. 2701 et seq.] and units of general purpose local government, should be encouraged, with Federal financial and technical assistance, to develop and support coordinated weatherization programs designed to alleviate the adverse effects of energy costs on such low-income persons, to supplement other Federal programs serving such low-income persons, and to increase energy efficiency.

(b) It is, therefore, the purpose of this part to develop and implement a weatherization assistance program to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total residential energy expenditures, and improve their health and safety, especially low-income persons who are particularly vulnerable such as the elderly, the handicapped, and children.

(Pub. L. 94-385, title IV, §411, Aug. 14, 1976, 90 Stat. 1151; Pub. L. 101-440, §7(j), Oct. 18, 1990, 104 Stat. 1015.)

REFERENCES IN TEXT

The Economic Opportunity Act of 1964, referred to in subsec. (a)(4), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended, which was classified generally to chapter 34 (§2701 et seq.) of this title prior to repeal, except for titles VIII and X, by Pub. L. 97-35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519. Titles VIII and X of the Act are classified generally to subchapters VIII (§2991 et seq.) and X (§2996 et seq.) of chapter 34 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1990—Pub. L. 101-440 amended section generally. Prior to amendment, section read as follows:

“(a) The Congress finds that—

- (1) dwellings owned or occupied by low-income persons frequently are inadequately insulated;
- (2) low-income persons, particularly elderly and handicapped low-income persons, can least afford to make the modifications necessary to provide for adequate insulation in such dwellings and to otherwise reduce residential energy use;

“(3) weatherization of such dwellings would lower utility expenses for such low-income owners or occupants as well as save thousands of barrels per day of needed fuel; and

“(4) States, through community action agencies established under the Economic Opportunity Act of 1964 and units of general purpose local government, should be encouraged, with Federal financial and technical assistance, to develop and support coordinated weatherization programs designed to ameliorate the adverse effects of high energy costs on such

¹ See References in Text note below.

low-income persons, to supplement other Federal programs serving such persons, and to conserve energy. "(b) It is, therefore, the purpose of this part to develop and implement a supplementary weatherization assistance program to assist in achieving a prescribed level of insulation in the dwellings of low-income persons, particularly elderly and handicapped low-income persons, in order both to aid those persons least able to afford higher utility costs and to conserve needed energy."

§ 6862. Definitions

As used in this part:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "Director" means the Director of the Community Services Administration.

(3) The term "elderly" means any individual who is 60 years of age or older.

(4) The term "Governor" means the chief executive officer of a State (including the Mayor of the District of Columbia).

(5) The term "handicapped person" means any individual (A) who is a handicapped individual as defined in section 7(7)¹ of the Rehabilitation Act of 1973 [29 U.S.C. 706(7)], (B) who is under a disability as defined in section 1614(a)(3)(A) or 233(d)(1) of the Social Security Act [42 U.S.C. 1382c(a)(3)(A), 423(d)(1)] or in section 102(7)¹ of the Developmental Disabilities Services and Facilities Construction Act [42 U.S.C. 6001(7)], or (C) who is receiving benefits under chapter 11 or 15 of title 38.

(6) The terms "Indian", "Indian tribe", and "tribal organization" have the meanings prescribed for such terms by paragraphs (4), (5), and (6), respectively, of section 102 of the Older Americans Act of 1965 [42 U.S.C. 3002].

(7) The term "low-income" means that income in relation to family size which (A) is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, except that the Secretary may establish a higher level if the Secretary, after consulting with the Secretary of Agriculture and the Director of the Community Services Administration, determines that such a higher level is necessary to carry out the purposes of this part and is consistent with the eligibility criteria established for the weatherization program under section 2809(a)(12) of this title, (B) is the basis on which cash assistance payments have been paid during the preceding 12-month period under titles IV and XVI of the Social Security Act [42 U.S.C. 601 et seq., 1381 et seq.] or applicable State or local law, or (C) if a State elects, is the basis for eligibility for assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621), provided that such basis is at least 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.

(8) The term "State" means each of the States and the District of Columbia.

(9) The term "weatherization materials" means—

(A) caulking and weatherstripping of doors and windows;

(B) furnace efficiency modifications, including, but not limited to—

(i) replacement burners, furnaces, or boilers or any combination thereof;

(ii) devices for minimizing energy loss through heating system, chimney, or venting devices; and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(C) clock thermostats;

(D) ceiling, attic, wall, floor, and duct insulation;

(E) water heater insulation;

(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective window and door materials;

(G) cooling efficiency modifications, including, but not limited to, replacement air-conditioners, ventilation equipment, screening, window films, and shading devices;

(H) solar thermal water heaters;

(I) wood-heating appliances; and

(J) such other insulating or energy conserving devices or technologies as the Secretary may determine, after consulting with the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Director, of the Community Services Administration.

(Pub. L. 94-385, title IV, §412, Aug. 14, 1976, 90 Stat. 1152; Pub. L. 95-602, title I, §122(e), Nov. 6, 1978, 92 Stat. 2987; Pub. L. 95-619, title II, §231(a)(1), (b)(2), Nov. 9, 1978, 92 Stat. 3224, 3225; Pub. L. 96-294, title V, §577(1), (2), June 30, 1980, 94 Stat. 760; Pub. L. 98-558, title IV, §§401, 402, Oct. 30, 1984, 98 Stat. 2887; Pub. L. 100-242, title V, §570(d), Feb. 5, 1988, 101 Stat. 1950; Pub. L. 101-440, §7(a), Oct. 18, 1990, 104 Stat. 1012; Pub. L. 102-486, title I, §142(b), Oct. 24, 1992, 106 Stat. 2843.)

REFERENCES IN TEXT

Section 7 of the Rehabilitation Act of 1973 [29 U.S.C. 706], referred to in par. (5), was subsequently amended, and section 7(7) no longer defines the term "handicapped individual". However, the successor term "individual with a disability" is defined elsewhere in that section.

The Developmental Disabilities Services and Facilities Construction Act, referred to in par. (5), is title I of Pub. L. 88-164, as added by Pub. L. 94-103, Oct. 4, 1975, 89 Stat. 496, and amended. Title I of Pub. L. 88-164, as amended generally by Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2662, is known as the Developmental Disabilities Assistance and Bill of Rights Act. Section 102(7) of that Act [42 U.S.C. 6001(7)] was subsequently amended and no longer defines the term "developmental disability". However, such term is defined elsewhere in that section.

Section 2809(a)(12) of this title, referred to in par. (7), which was redesignated as section 2809(a)(5) by Pub. L. 95-568, §5(a)(2)(E), Nov. 2, 1978, 92 Stat. 2426, was subsequently repealed by Pub. L. 97-35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519.

The Social Security Act, referred to in par. (7), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles IV and XVI of the Social Security Act are classified generally to subchapters IV (§601 et seq.) and XVI (§1381 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Low-Income Home Energy Assistance Act of 1981, referred to in par. (7), is title XXVI of Pub. L. 97-35,

¹ See References in Text note below.

Aug. 13, 1981, 95 Stat. 893, as amended, which is classified generally to subchapter II (§8621 et seq.) of chapter 94 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 8621 of this title and Tables.

AMENDMENTS

1992—Par. (9)(G) to (J). Pub. L. 102-486 realigned margin of subpar. (G), added subpars. (H) and (I), and redesignated former subpar. (H) as (J).

1990—Par. (9)(G), (H). Pub. L. 101-440 added subpar. (G) and redesignated former subpar. (G) as (H).

1988—Par. (9)(G). Pub. L. 100-242 substituted a single comma for two consecutive commas after “determine”.

1984—Par. (7)(C). Pub. L. 98-558, §401, added cl. (C).

Par. (9)(B). Pub. L. 98-558, §402(1), in amending subpar. (B) generally, substituted “, including, but not limited to” for “limited to” in provisions preceding cl. (i), “, furnaces, or boilers or any combination thereof” for “designed to substantially increase the energy efficiency of the heating system,” in cl. (i), and “minimizing energy loss through heating system, chimney, or venting devices” for “modifying flue openings which will increase the energy efficiency of the heating system,” in cl. (ii).

Par. (9)(C). Pub. L. 98-558, §402(2), struck out “by rule” after “may determine.”

1980—Par. (1). Pub. L. 96-294, §577(1), substituted provisions defining “Secretary” for provisions defining “Administrator”.

Pars. (7), (9)(G). Pub. L. 96-294, §577(2), substituted “Secretary” for “Administrator” wherever appearing.

1978—Par. (5). Pub. L. 95-602 substituted “section 7(7) of the Rehabilitation Act of 1973” for “section 7(6) of the Rehabilitation Act of 1973”.

Par. (7)(A). Pub. L. 95-619, §231(a)(1), inserted “125 percent of” after “at or below” and inserted provision authorizing the Administrator to establish a higher level for low-income computations after determining such higher level to be necessary to carry out the purposes of this part.

Par. (9). Pub. L. 95-619, §231(b)(2), substituted a specific listing of items to be considered weatherization materials for purposes of this part for a general statement of the sort of materials that could be considered as such.

COMMUNITY SERVICES ADMINISTRATION

Community Services Administration, which was established by section 601 of Economic Opportunity Act of 1964, as amended (42 U.S.C. 2941), terminated when Economic Opportunity Act of 1964, Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended, was repealed, except for titles VIII and X, effective Oct. 1, 1981, by section 683(a) of Pub. L. 97-35, title VI, Aug. 13, 1981, 95 Stat. 519, which is classified to 42 U.S.C. 9912(a). An Office of Community Services, headed by a Director, was established in Department of Health and Human Services by section 676 of Pub. L. 97-35, which is classified to 42 U.S.C. 9905.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1474, 6372 of this title; title 12 section 1703.

§ 6863. Weatherization program

(a) Development and conduct of program by Secretary; grants to States and Indian tribal organizations

The Secretary shall develop and conduct, in accordance with the purpose and provisions of this part, a weatherization program. In developing and conducting such program, the Secretary may, in accordance with this part and regulations promulgated under this part, make grants (1) to States, and (2) in accordance with the provisions of subsection (d) of this section, to In-

dian tribal organizations to serve Native Americans. Such grants shall be made for the purpose of providing financial assistance with regard to projects designed to provide for the weatherization of dwelling units, particularly those where elderly or handicapped low-income persons reside, occupied by low-income families.

(b) Consultation by Secretary with other Federal departments and agencies on development and publication in Federal Register of proposed regulations; required regulatory provisions; standards and procedures; rental units

(1) The Secretary, after consultation with the Director, the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, the Secretary of Labor, and the heads of such other Federal departments and agencies as the Secretary deems appropriate, shall develop and publish in the Federal Register for public comment, not later than 60 days after August 14, 1976, proposed regulations to carry out the provisions of this part. The Secretary shall take into consideration comments submitted regarding such proposed regulations and shall promulgate and publish final regulations for such purpose not later than 90 days after August 14, 1976. The development of regulations under this part shall be fully coordinated with the Director.

(2) The regulations promulgated pursuant to this section shall include provisions—

(A) prescribing, in coordination with the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, and the Director of the National Institute of Standards and Technology in the Department of Commerce, for use in various climatic, structural, and human need settings, standards for weatherization materials, energy conservation techniques, and balance combinations thereof, which are designed to achieve a balance of a healthful dwelling environment and maximum practicable energy conservation;

(B) that provide guidance to the States in the implementation of this part, including guidance designed to ensure that a State establishes (i) procedures that provide protection under paragraph (5) to tenants paying for energy as a portion of their rent, and (ii) a process for monitoring compliance with its obligations pursuant to this part; and

(C) that secure the Federal investment made under this part and address the issues of eviction from and sale of property receiving weatherization materials under this part.

(3) The Secretary, in coordination with the Secretaries and Director described in paragraph (2)(A) and with the Director of the Community Services Administration and the Secretary of Agriculture, shall develop and publish in the Federal Register for public comment, not later than 60 days after November 9, 1978, proposed amendments to the regulations prescribed under paragraph (1). Such amendments shall provide that the standards described in paragraph (2)(A) shall include a set of procedures to be applied to each dwelling unit to determine the optimum set of cost-effective measures, within the cost guidelines set for the program, to be installed in

such dwelling unit. Such standards shall, in order to achieve such optimum savings of energy, take into consideration the following factors—

- (A) the cost of the weatherization material;
- (B) variation in climate; and
- (C) the value of energy saved by the application of the weatherization material.

Such standards shall be utilized by the Secretary in carrying out this part, the Secretary of Agriculture in carrying out the weatherization program under section 1474(c) of this title, and the Director of the Community Services Administration in carrying out weatherization programs under section 222(a)(12) of the Economic Opportunity Act of 1964 [42 U.S.C. 2809(a)(12)]. The Secretary shall take into consideration comments submitted regarding such proposed amendment and shall promulgate and publish final amended regulations not later than 120 days after November 9, 1978.

(4) In carrying out paragraphs (2)(A) and (3), the Secretary shall establish the standards and procedures described in such paragraphs so that weatherization efforts being carried out under this part and under programs described in the fourth sentence of paragraph (3) will accomplish uniform results among the States in any area with a similar climatic condition.

(5) In any case in which a dwelling consists of a rental unit or rental units, the State, in the implementation of this part, shall ensure that—

(A) the benefits of weatherization assistance in connection with such rental units, including units where the tenants pay for their energy through their rent, will accrue primarily to the low-income tenants residing in such units;

(B) for a reasonable period of time after weatherization work has been completed on a dwelling containing a unit occupied by an eligible household, the tenants in that unit (including households paying for their energy through their rent) will not be subjected to rent increases unless those increases are demonstrably related to matters other than the weatherization work performed;

(C) the enforcement of subparagraph (B) is provided through procedures established by the State by which tenants may file complaints and owners, in response to such complaints, shall demonstrate that the rent increase concerned is related to matters other than the weatherization work performed; and

(D) no undue or excessive enhancement will occur to the value of such dwelling units.

(6) As a condition of having assistance provided under this part with respect to multifamily buildings, a State may require financial participation from the owners of such buildings.

(c) Failure of State to submit application; alternate application by any unit of general purpose local government or community action agency; submission of amended application by State

If a State does not, within 90 days after the date on which final regulations are promulgated under this section, submit an application to the Secretary which meets the requirements set

forth in section 6864 of this title, any unit of general purpose local government of sufficient size (as determined by the Secretary), or a community action agency carrying out programs under title II of the Economic Opportunity Act of 1964 [42 U.S.C. 2781 et seq.], may, in lieu of such State, submit an application (meeting such requirements and subject to all other provisions of this part) for carrying out projects under this part within the geographical area which is subject to the jurisdiction of such government or is served by such agency. A State may, in accordance with regulations promulgated under this part, submit an amended application.

(d) Direct grants to low-income members of Indian tribal organizations or alternate service organizations; application for funds

(1) Notwithstanding any other provision of this part, in any State in which the Secretary determines (after having taken into account the amount of funds made available to the State to carry out the purposes of this part) that the low-income members of an Indian tribe are not receiving benefits under this part that are equivalent to the assistance provided to other low-income persons in such State under this part, and if he further determines that the members of such tribe would be better served by means of a grant made directly to provide such assistance, he shall reserve from sums that would otherwise be allocated to such State under this part not less than 100 percent, nor more than 150 percent, of an amount which bears the same ratio to the State's allocation for the fiscal year involved as the population of all low-income Indians for whom a determination under this subsection has been made bears to the population of all low-income persons in such State.

(2) The sums reserved by the Secretary on the basis of his determination under this subsection shall be granted to the tribal organization serving the individuals for whom such a determination has been made, or, where there is no tribal organization, to such other entity as he determines has the capacity to provide services pursuant to this part.

(3) In order for a tribal organization or other entity to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary an application meeting the requirements set forth in section 6864 of this title.

(e) Transfer of funds

Notwithstanding any other provision of law, the Secretary may transfer to the Director sums appropriated under this part to be utilized in order to carry out programs, under section 222(a)(12) of the Economic Opportunity Act of 1964 [42 U.S.C. 2809(a)(12)], which further the purpose of this part.

(Pub. L. 94-385, title IV, §413, Aug. 14, 1976, 90 Stat. 1152; Pub. L. 95-619, title II, §231(a)(2), (b)(1), Nov. 9, 1978, 92 Stat. 3224; Pub. L. 96-294, title V, §§573(b), 574, 577(2), June 30, 1980, 94 Stat. 759, 760; Pub. L. 98-479, title II, §201(h), Oct. 17, 1984, 98 Stat. 2228; Pub. L. 100-418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433; Pub. L. 101-440, §7(b), Oct. 18, 1990, 104 Stat. 1012; Pub. L. 103-82, title IV, §405(l), Sept. 21, 1993, 107 Stat. 922.)

REFERENCES IN TEXT

The Economic Opportunity Act of 1964, referred to in subsecs. (b)(3), (c), and (e), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended. Title II of the Economic Opportunity Act of 1964 was classified generally to subchapter II (§2781 et seq.) of chapter 34 of this title prior to repeal by Pub. L. 97-35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519. Prior to that repeal, section 222(a)(12) of that Act [42 U.S.C. 2809(a)(12)] was redesignated as section 222(a)(5) [42 U.S.C. 2809(a)(5)] by Pub. L. 95-568, §5(a)(2)(E), Nov. 2, 1978, 94 Stat. 2426. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1993—Subsec. (b)(1). Pub. L. 103-82 struck out “the Director of the ACTION Agency,” after “Labor.”.

1990—Subsec. (b)(2)(B), (C). Pub. L. 101-440, §7(b)(1), added subpars. (B) and (C) and struck out former subpar. (B) which read as follows: “designed to insure that (i) the benefits of weatherization assistance in connection with leased dwelling units will accrue primarily to low-income tenants; (ii) the rents on such dwelling units will not be raised because of any increase in the value thereof due solely to weatherization assistance provided under this part; and (iii) no undue or excessive enhancement will occur to the value of such dwelling units.”

Subsec. (b)(5), (6). Pub. L. 101-440, §7(b)(2), added pars. (5) and (6).

1988—Subsec. (b)(2)(A). Pub. L. 100-418 substituted “National Institute of Standards and Technology” for “National Bureau of Standards”.

1984—Subsec. (b)(1), (2)(A). Pub. L. 98-479 substituted “Health and Human Services” for “Health, Education, and Welfare”.

1980—Subsecs. (a), (b)(1), (3). Pub. L. 96-294, §577(2), substituted “Secretary” for “Administrator” wherever appearing.

Subsec. (b)(4). Pub. L. 96-294, §574, added par. (4).

Subsec. (c). Pub. L. 96-294, §§573(b), 577(2), substituted “Secretary” for “Administrator” wherever appearing, and struck out provisions relating to determinations respecting inapplicability of allocation requirement and priority for an applicable community action agency.

Subsec. (d), (e). Pub. L. 96-294, §577(2), substituted “Secretary” for “Administrator” wherever appearing.

1978—Subsec. (a). Pub. L. 95-619, §231(a)(2), substituted “occupied by low-income families” for “in which the head of the household is a low-income person”.

Subsec. (b)(3). Pub. L. 95-619, §231(b)(1), added par. (3).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103-82, set out as a note under section 8332 of Title 5, Government Organization and Employees.

COMMUNITY SERVICES ADMINISTRATION

Community Services Administration, which was established by section 601 of Economic Opportunity Act of 1964, as amended (42 U.S.C. 2941), terminated when Economic Opportunity Act of 1964, Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended, was repealed, except for titles VIII and X, effective Oct. 1, 1981, by section 683(a) of Pub. L. 97-35, title VI, Aug. 13, 1981, 95 Stat. 519, which is classified to 42 U.S.C. 9912(a). An Office of Community Services, headed by a Director, was established in Department of Health and Human Services by section 676 of Pub. L. 97-35, which is classified to 42 U.S.C. 9905.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1474, 6864, 6864a, 6864b, 6868 of this title.

§ 6864. Financial assistance

(a) Annual application; contents; allocation to States

The Secretary shall provide financial assistance, from sums appropriated for any fiscal year under this part, only upon annual application. Each such application shall describe the estimated number and characteristics of the low-income persons and the number of dwelling units to be assisted and the criteria and methods to be used by the applicant in providing weatherization assistance to such persons. The application shall also contain such other information (including information needed for evaluation purposes) and assurances as may be required (1) in the regulations promulgated pursuant to section 6863 of this title and (2) to carry out this section. The Secretary shall allocate financial assistance to each State on the basis of the relative need for weatherization assistance among low-income persons throughout the States, taking into account the following factors:

(A) The number of dwelling units to be weatherized.

(B) The climatic conditions in the State respecting energy conservation, which may include consideration of annual degree days.

(C) The type of weatherization work to be done in the various settings.

(D) Such other factors as the Secretary may determine necessary, such as the cost of heating and cooling, in order to carry out the purpose and provisions of this part.

(b) Requirements for assistance

The Secretary shall not provide financial assistance under this part unless the applicant has provided reasonable assurances that it has—

(1) established a policy advisory council which (A) has special qualifications and sensitivity with respect to solving the problems of low-income persons (including the weatherization and energy-conservation problems of such persons), (B) is broadly representative of organizations and agencies which are providing services to such persons in the State or geographical area in question, and (C) is responsible for advising the responsible official or agency administering the allocation of financial assistance in such State or area with respect to the development and implementation of such weatherization assistance program;

(2) established priorities to govern the provision of weatherization assistance to low-income persons, including methods to provide priority to elderly and handicapped low-income persons, and such priority as the applicant determines is appropriate for single-family or other high-energy-consuming dwelling units;

(3) established policies and procedures designed to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State or local funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out the purpose of this part, including plans and procedures (A) for secur-

ing, to the maximum extent practicable, the services of volunteers and training participants and public service employment workers, pursuant to the Job Training Partnership Act [29 U.S.C. 1501 et seq.], to work under the supervision of qualified supervisors and foremen, (B) for using Federal financial assistance under this part to increase the portion of low-income weatherization assistance that the State obtains from non-Federal sources, including private sources, and (C) for complying with the limitations set forth in section 6865 of this title; and

(4) selected on the basis of public comment received during a public hearing conducted pursuant to section 6865(b)(1) of this title, and other appropriate findings, community action agencies or other public or nonprofit entities to undertake the weatherization activities authorized by this subchapter: *Provided*, Such selection shall be based on the agency's experience and performance in weatherization or housing renovation activities, experience in assisting low-income persons in the area to be served, and the capacity to undertake a timely and effective weatherization program: *Provided further*, That in making such selection preference shall be given to any community action agency or other public or nonprofit entity which has, or is currently administering, an effective program under this subchapter or under title II of the Economic Opportunity Act of 1964 [42 U.S.C. 2781 et seq.].

(c) Annual update of data used in allocating funds

Effective with fiscal year 1991, and annually thereafter, the Secretary shall update the population, eligible households, climatic, residential energy use, and all other data used in allocating the funds under this part among the States pursuant to subsection (a) of this section.

(Pub. L. 94-385, title IV, §414, Aug. 14, 1976, 90 Stat. 1154; Pub. L. 96-294, title V, §§573(c), 577(2), June 30, 1980, 94 Stat. 759, 760; Pub. L. 97-300, title I, §183, Oct. 13, 1982, 96 Stat. 1357; Pub. L. 101-440, §7(c), (g), Oct. 18, 1990, 104 Stat. 1012, 1014.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsec. (b)(3), is Pub. L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

The Economic Opportunity Act of 1964, referred to in subsec. (b)(4), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended. Title II of the Economic Opportunity Act of 1964 was classified generally to subchapter II (§2781 et seq.) of chapter 34 of this title prior to repeal by Pub. L. 97-35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519. For complete classification of this Act to the Code, see Tables.

CODIFICATION

In subsec. (b)(3), "Job Training Partnership Act [29 U.S.C. 1501 et seq.]" substituted for "Comprehensive Employment and Training Act of 1973 [29 U.S.C. 801 et seq.]" pursuant to section 183 of the Job Training Partnership Act, Pub. L. 97-300, title I, Oct. 13, 1982, 96 Stat. 1357, which is classified to section 1592 of Title 29, Labor, and which provided in part that references in

any other statute to Comprehensive Employment and Training Act shall be deemed to refer to Job Training Partnership Act.

AMENDMENTS

1990—Subsec. (a)(D). Pub. L. 101-440, §7(c)(1), inserted " , such as the cost of heating and cooling," after "necessary".

Subsec. (b)(3). Pub. L. 101-440, §7(g), added cl. (B) and redesignated former cl. (B) as (C).

Subsec. (c). Pub. L. 101-440, §7(c)(2), added subsec. (c).

1980—Subsec. (a). Pub. L. 96-294, §577(2), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (b). Pub. L. 96-294, §§573(c), 577(2), substituted "Secretary" for "Administrator" and added par. (4).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6863, 6864a, 6864b, 6869 of this title.

§ 6864a. Private sector investments

(a) In general

The Secretary shall, to the extent funds are made available for such purpose, provide financial assistance to entities receiving funding from the Federal Government or from a State through a weatherization assistance program under section 6863 or section 6864 of this title for the development and initial implementation of partnerships, agreements, or other arrangements with utilities, private sector interests, or other institutions, under which non-Federal financial assistance would be made available to support programs which install energy efficiency improvements in low-income housing.

(b) Use of funds

Financial assistance provided under this section may be used for—

(1) the negotiation of such partnerships, agreements and other arrangements;

(2) the presentation of arguments before State or local agencies;

(3) expert advice on the development of such partnerships, agreements, and other arrangements; or

(4) other activities reasonably associated with the development and initial implementation of such arrangements.

(c) Conditions

(1) Financial assistance provided under this section to entities other than States shall, to the extent practicable, coincide with the timing of financial assistance provided to such entities under section 6863 or section 6864 of this title.

(2) Not less than 80 percent of amounts provided under this section shall be provided to entities other than States.

(3) A recipient of financial assistance under this section shall have up to three years to complete projects undertaken with such assistance.

(Pub. L. 94-385, title IV, §414A, as added Pub. L. 102-486, title I, §142(a), Oct. 24, 1992, 106 Stat. 2842.)

§ 6864b. Technical transfer grants

(a) In general

The Secretary may, to the extent funds are made available, provide financial assistance to entities receiving funding from the Federal Government or from a State through a weatheriza-

tion assistance program under section 6863 or section 6864 of this title for—

- (1) evaluating technical and management measures which increase program and/or private entity performance in weatherizing low-income housing;
- (2) producing technical information for use by persons involved in weatherizing low-income housing;
- (3) exchanging information; and
- (4) conducting training programs for persons involved in weatherizing low-income housing.

(b) Conditions

(1) Not less than 50 percent of amounts provided under this section shall be awarded to entities other than States.

(2) A recipient of financial assistance under this section may contract with nonprofit entities to carry out all or part of the activities for which such financial assistance is provided.

(Pub. L. 94-385, title IV, §414B, as added Pub. L. 102-486, title I, §142(a), Oct. 24, 1992, 106 Stat. 2842.)

§ 6865. Limitations on financial assistance

(a) Purchase of materials and administration of projects

(1) Except as provided in paragraph (2), an average of at least forty percent of the funds provided in a State under this part for weatherization materials, labor, and related matters described in subsection (c) of this section shall be spent for weatherization materials. Not more than an amount equal to 10 percent of any grant made by the Secretary under this part may be used for administrative purposes in carrying out duties under this part, except that not more than one-half of such amount may be used by any State for such purposes, and a State may provide in the plan adopted pursuant to subsection (b) of this section for recipients of grants of less than \$350,000 to use up to an additional 5 percent of such grant for administration if the State has determined that such recipient requires such additional amount to implement effectively the administrative requirements established by the Secretary pursuant to this part.

(2)(A) The Secretary shall approve a State's application to waive the 40-percent requirement established in paragraph (1) if the State includes in its plan energy audit procedures and techniques which (i) meet standards established by the Secretary after consultation with the State Energy Advisory Board established under section 6325(g) of this title, (ii) establish priorities for selection of weatherization measures based on their cost and contribution to energy efficiency, (iii) measure the energy requirement of individual dwellings and the rate of return of the total conservation investment in a dwelling, and (iv) account for interaction among energy efficiency measures.

(B) The Secretary shall make information on energy audit procedures and techniques available to States applying for a waiver under subparagraph (A) and shall provide training for State and local agencies in the implementation of such procedures and techniques.

(b) Allocation, termination or discontinuance by Secretary

The Secretary shall insure that financial assistance provided under this part will—

(1) be allocated within the State or area in accordance with a published State or area plan, which is adopted by such State after notice and a public hearing, describing the proposed funding distributions and recipients;

(2) be allocated, pursuant to such State or area plan, to community action agencies carrying out programs under title II of the Economic Opportunity Act of 1964 [42 U.S.C. 2781 et seq.] or to other appropriate and qualified public or nonprofit entities in such State or area so that—

(A) funds will be allocated on the basis of the relative need for weatherization assistance among the low-income persons within such State or area, taking into account appropriate climatic and energy conservation factors; and

(B) due consideration will be given to the results of periodic evaluations of the projects carried out under this part in light of available information regarding the current and anticipated energy and weatherization needs of low-income persons within the State; and

(3) be terminated or discontinued during the application period only in accordance with policies and procedures consistent with the policies and procedures set forth in section 6868 of this title.

(c) Limitations on expenditures; exceptions; annual adjustments

(1) Except as provided in paragraphs (3) and (4), the expenditure of financial assistance provided under this part for labor, weatherization materials, and related matters shall not exceed an average of \$1,600 per dwelling unit weatherized in that State. Labor, weatherization materials, and related matter includes, but is not limited to—

(A) the appropriate portion of the cost of tools and equipment used to install weatherization materials for a dwelling unit;

(B) the cost of transporting labor, tools, and materials to a dwelling unit;

(C) the cost of having onsite supervisory personnel; and

(D) the cost of making incidental repairs to a dwelling unit if such repairs are necessary to make the installation of weatherization materials effective.

(2) Dwelling units partially weatherized under this part or under other Federal programs during the period September 30, 1975, through September 30, 1979, may receive further financial assistance for weatherization under this part.

(3) Beginning with fiscal year 1991, the \$1,600 per dwelling unit limitation provided in paragraph (1) shall be adjusted annually by increasing the limitation amount by an amount equal to—

(A) the limitation amount for the previous fiscal year, multiplied by

(B) the lesser of (i) the percentage increase in the Consumer Price Index (all items, United

States city average) for the most recent calendar year completed before the beginning of fiscal year for which the determination is being made, or (ii) three percent.

(4)(A) In addition to the average per dwelling unit limitation applicable in a State under paragraphs (1) and (3), the Secretary shall, upon application by a State, establish a separate average per dwelling unit limitation for dwelling units in such State—

(i) which conform to program requirements; and

(ii) which, in addition to any other weatherization modifications, have furnace efficiency modifications made under this part.

(B) The average per dwelling unit limitation applicable in a State to units described in subparagraph (A) shall not exceed an amount equal to—

(i) the amount permitted for the expenditure of financial assistance for labor, weatherization materials, and related matters for dwelling units in such State under paragraphs (1) and (3), plus

(ii) an amount determined by the State to be the average amount that is appropriate for furnace efficiency modifications of dwelling units of the type assisted under this part in such State.

(d) Supplementary financial assistance to States

Beginning with fiscal year 1992, the Secretary may allocate funds appropriated pursuant to section 6872(b) of this title to provide supplementary financial assistance to those States which the Secretary determines have achieved the best performance during the previous fiscal year in achieving the purposes of this part. In making this determination, the Secretary shall—

(1) consult with the State Energy Advisory Board established under section 6325(g) of this title; and

(2) give priority to those States which, during such previous fiscal year, obtained a significant portion of income from non-Federal sources for their weatherization programs or increased significantly the portion of low-income weatherization assistance that the State obtained from non-Federal sources.

(e) Supplementary financial assistance to grant recipients

(1)(A) Beginning with fiscal year 1992, the Secretary may allocate, from funds appropriated pursuant to section 6872(b) of this title, among the States an equal amount for each State not to exceed \$100,000 per State. Each State shall make available amounts received under this subsection to provide supplementary financial assistance to recipients of grants under this part that have achieved the best performance during the previous fiscal year in advancing the purposes of this part.

(B) None of the funds made available under this subsection may be used by any State for administrative purposes.

(2) The Secretary shall, after consulting with the State Energy Advisory Board referred to in subsection (d)(1) of this section, prescribe guidelines to be used by each State in making avail-

able supplementary financial assistance under this subsection, with a priority being given to subgrantees that, by law or through administrative or other executive action, provided non-Federal resources (including private resources) to supplement Federal financial assistance under this part during the previous fiscal year.

(Pub. L. 94-385, title IV, §415, Aug. 14, 1976, 90 Stat. 1155; Pub. L. 95-619, title II, §231(c), Nov. 9, 1978, 92 Stat. 3225; Pub. L. 96-294, title V, §§571, 572, 573(a), 575, 577(2), June 30, 1980, 94 Stat. 759, 760; Pub. L. 98-558, title IV, §§403, 404, Oct. 30, 1984, 98 Stat. 2887, 2888; Pub. L. 101-440, §7(d)-(f), (i), Oct. 18, 1990, 104 Stat. 1013, 1014.)

REFERENCES IN TEXT

The Economic Opportunity Act of 1964, referred to in subsec. (b)(2), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended. Title II of the Economic Opportunity Act of 1964 was classified generally to subchapter II (§2781 et seq.) of chapter 34 of this title prior to repeal by Pub. L. 97-35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-440, §7(d), substituted “(1) Except as provided in paragraph (2), an average” for “An average”, inserted before period at end “, and a State may provide in the plan adopted pursuant to subsection (b) of this section for recipients of grants of less than \$350,000 to use up to an additional 5 percent of such grant for administration if the State has determined that such recipient requires such additional amount to implement effectively the administrative requirements established by the Secretary pursuant to this part”, and added par. (2).

Subsec. (c)(1). Pub. L. 101-440, §7(e)(1), substituted “Except as provided in paragraphs (3) and (4), the expenditure” for “The expenditure”.

Subsec. (c)(3), (4). Pub. L. 101-440, §7(e)(2), added pars. (3) and (4).

Subsec. (d). Pub. L. 101-440, §7(i), added subsec. (d).

Pub. L. 101-440, §7(f), struck out subsec. (d) which established a performance fund to provide financial assistance to those States the Secretary determined to have demonstrated the best performance during the previous fiscal year in providing weatherization assistance.

Subsec. (e). Pub. L. 101-440, §7(i), added subsec. (e).

1984—Subsec. (a). Pub. L. 98-558, §403(1), substituted provisions that an average of at least forty percent of the funds provided shall be spent for weatherization for former provisions which directed the Secretary to use funds to the maximum extent practicable.

Subsec. (c). Pub. L. 98-558, §403(2), in amending subsec. (c) generally, substituted provisions that expenditures shall not exceed an average of \$1,600 per dwelling unit for former provisions which provided for an \$800 per dwelling unit limit in par. (1), struck out “(not to exceed \$150)” after “the cost” in par. (1)(D), substituted provisions that dwelling units partially weatherized between certain dates could receive further financial assistance under this part for former provisions that \$800 limit would not apply if the State policy advisory council requested greater amounts from the Secretary and the Secretary gave approval in par. (2), and deleted former par. (3) which provided that in areas where the Secretary, after consultation with the Secretary of Labor, determined that there was an insufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment and Training Act of 1973, available to work on weatherization projects under the supervision of qualified supervisors and foremen, the Secretary could increase the limitation of \$800 to not more than \$1,600 to cover the costs of paying persons

who would install the weatherization materials and, to the maximum extent practicable, who would otherwise be able to participate as training participants and public service employment workers pursuant to the Comprehensive Employment and Training Act of 1973.

Subsec. (d). Pub. L. 98-558, §404, added subsec. (d).

1980—Subsec. (a). Pub. L. 96-294, §§571, 577(2), substituted “Secretary” for “Administrator” and provisions limiting amounts used for administrative purposes in any grant made by the Secretary under this part for provisions limiting amounts used for administrative purposes in any grant made pursuant to section 6863(a) of this title and any allocations under this section.

Subsec. (b). Pub. L. 96-294, §§573(a), 577(2), substituted in provision preceding par. (1) “Secretary” for “Administrator”, redesignated former par. (2)(C) as (B), and struck out former par. (2)(B), which related to funds allocated for carrying out weatherization projects under this part in the geographical area served by the emergency program.

Subsec. (c)(1). Pub. L. 96-294, §§572(1), 575, inserted in provision preceding subpar. (A) reference to par. (3) and in subpar. (D) substituted “\$150” for “\$100”.

Subsec. (c)(2). Pub. L. 96-294, §577(2), substituted “Secretary” for “Administrator” wherever appearing.

Subsec. (c)(3). Pub. L. 96-294, §572(2), added par. (3).

1978—Subsec. (a). Pub. L. 95-619, §231(c)(1), authorized expenditure of allocations under this part for costs related to weatherization of a dwelling unit as provided in subsec. (c) of this section and substituted an administrative expenses limitation of five percent of any allocation under this section for a similar limitation of ten percent of any such allocation.

Subsec. (c). Pub. L. 95-619, §231(c)(2), included expenditure of financial assistance provided under this section for costs related to procurement and installation of weatherization materials in dwelling units in the maximum amount available per dwelling unit and increased such maximum amount to \$800 per unit.

PERFORMANCE FUND; RESTRICTION ON USE

Pub. L. 99-190, §101(d) [title II, §201], Dec. 19, 1985, 99 Stat. 1224, 1253, provided: “That section 404 of Public Law 98-558 [enacting subsec. (d) of this section] shall not be effective in any fiscal year in which the amount made available for low income weatherization assistance from appropriations under this head is less than 5 per centum above the amount made available in fiscal year 1985.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1474, 6864, 6872 of this title.

§ 6866. Monitoring and evaluation of funded projects; technical assistance; limitation on assistance

The Secretary, in coordination with the Director, shall monitor and evaluate the operation of projects receiving financial assistance under this part through methods provided for in section 6867(a) of this title, through onsite inspections, or through other means, in order to assure the effective provision of weatherization assistance for the dwelling units of low-income persons. The Secretary shall also carry out periodic evaluations of the program authorized by this part and projects receiving financial assistance under this part. The Secretary may provide technical assistance to any such project, directly and through persons and entities with a demonstrated capacity in developing and implementing appropriate technology for enhancing the effectiveness of the provision of weatherization assistance to the dwelling units of low-in-

come persons, utilizing in any fiscal year not to exceed 10 percent of the sums appropriated for such year under this part.

(Pub. L. 94-385, title IV, §416, Aug. 14, 1976, 90 Stat. 1156; Pub. L. 96-294, title V, §577(2), June 30, 1980, 94 Stat. 760.)

AMENDMENTS

1980—Pub. L. 96-294 substituted “Secretary” for “Administrator” wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6871 of this title.

§ 6867. Administration of projects receiving financial assistance

(a) Reporting requirements

The Secretary, in consultation with the Director, by general or special orders, may require any recipient of financial assistance under this part to provide, in such form as he may prescribe, such reports or answers in writing to specific questions, surveys, or questionnaires as may be necessary to enable the Secretary and the Director to carry out their functions under this part.

(b) Maintenance of records

Each person responsible for the administration of a weatherization assistance project receiving financial assistance under this part shall keep such records as the Secretary may prescribe in order to assure an effective financial audit and performance evaluation of such project.

(c) Audit and examination of books, etc.

The Secretary, the Director (with respect to community action agencies), and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, information, and records of any project receiving financial assistance under this part that are pertinent to the financial assistance received under this part.

(d) Method of payments

Payments under this part may be made in installments and in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(Pub. L. 94-385, title IV, §417, Aug. 14, 1976, 90 Stat. 1156; Pub. L. 96-294, title V, §577(2), June 30, 1980, 94 Stat. 760.)

AMENDMENTS

1980—Subsecs. (a) to (c). Pub. L. 96-294 substituted “Secretary” for “Administrator” wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6866 of this title.

§ 6868. Approval of application or amendment for financial assistance; administrative procedures applicable

(a) The Secretary shall not finally disapprove any application submitted under this part, or any amendment thereto, without first affording the State (or unit of general purpose local government or community action agency under sec-

tion 6863(c) of this title, as appropriate) in question, as well as other interested parties, reasonable notice and an opportunity for a public hearing. The Secretary may consolidate into a single hearing the consideration of more than one such application for a particular fiscal year to carry out projects within a particular State. Whenever the Secretary, after reasonable notice and an opportunity for a public hearing, finds that there is a failure to comply substantially with the provisions of this part or regulations promulgated under this part, he shall notify the agency or institution involved and other interested parties that such State (or unit of general purpose local government or agency, as appropriate) will no longer be eligible to participate in the program under this part until the Secretary is satisfied that there is no longer any such failure to comply.

(b) Reasonable notice under this section shall include a written notice of intention to act adversely (including a statement of the reasons therefor) and a reasonable period of time within which to submit corrective amendments to the application, or to propose corrective action.

(Pub. L. 94-385, title IV, §418, Aug. 14, 1976, 90 Stat. 1157; Pub. L. 96-294, title V, §577(2), June 30, 1980, 94 Stat. 760.)

AMENDMENTS

1980—Subsec. (a). Pub. L. 96-294 substituted “Secretary” for “Administrator” wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6865, 6869 of this title.

§ 6869. Judicial review of final action by Secretary on application

(a) Time for appeal; jurisdiction; filing of administrative record by Secretary

If any applicant is dissatisfied with the Secretary's final action with respect to the application submitted by it under section 6864 of this title, or with a final action under section 6863 of this title, such applicant may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which the State involved is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28.

(b) Conclusiveness of findings of Secretary; remand; modified findings by Secretary; certification of record

The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive. The court may, for good cause shown, remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action. The Secretary shall certify to the court the record of any such further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Power of court to affirm or set aside action of Secretary; appeal to Supreme Court

The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28.

(Pub. L. 94-385, title IV, §419, Aug. 14, 1976, 90 Stat. 1157; Pub. L. 96-294, title V, §577(2), (3), June 30, 1980, 94 Stat. 760.)

AMENDMENTS

1980—Subsecs. (a) to (c). Pub. L. 96-294 substituted “Secretary” for “Administrator” wherever appearing, and “Secretary’s” for “Administrator’s”.

§ 6870. Prohibition against discrimination; notification to funded project of violation; penalties for failure to comply

(a) No person in the United States shall, on the ground of race, color, national origin, or sex, or on the ground of any other factor specified in any Federal law prohibiting discrimination, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, project, or activity supported in whole or in part with financial assistance under this part.

(b) Whenever the Secretary determines that a recipient of financial assistance under this part has failed to comply with subsection (a) of this section or any applicable regulation, he shall notify the recipient thereof in order to secure compliance. If, within a reasonable period of time thereafter, such recipient fails to comply, the Secretary shall—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the power and functions provided by title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] and any other applicable Federal nondiscrimination law; or

(3) take such other action as may be authorized by law.

(Pub. L. 94-385, title IV, §420, Aug. 14, 1976, 90 Stat. 1158; Pub. L. 96-294, title V, §577(2), June 30, 1980, 94 Stat. 760.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (b)(2), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

AMENDMENTS

1980—Subsec. (b). Pub. L. 96-294 substituted “Secretary” for “Administrator” wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6871 of this title.

§ 6871. Annual report by Secretary and Director to President and Congress on weatherization program

The Secretary and (with respect to the operation and effectiveness of activities carried out

through community action agencies) the Director shall each submit, on or before March 31, 1977, and annually thereafter, a report to the Congress and the President describing the weatherization assistance program carried out under this part or any other provision of law, including the results of the periodic evaluations and monitoring activities required by section 6866 of this title. Such report shall include information and data furnished by each State on the average costs incurred in weatherization of individual dwelling units, the average size of the dwellings being weatherized, and the average income of households receiving assistance under this part.

(Pub. L. 94-385, title IV, §421, Aug. 14, 1976, 90 Stat. 1158; Pub. L. 96-294, title V, §577(2), June 30, 1980, 94 Stat. 760; Pub. L. 101-440, §7(h), Oct. 18, 1990, 104 Stat. 1014.)

AMENDMENTS

1990—Pub. L. 101-440 struck out “through 1979” after “and annually thereafter” and inserted at end “Such report shall include information and data furnished by each State on the average costs incurred in weatherization of individual dwelling units, the average size of the dwellings being weatherized, and the average income of households receiving assistance under this part.”

1980—Pub. L. 96-294 substituted “Secretary” for “Administrator”.

§ 6872. Authorization of appropriations

(a) There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, other than under subsections (d) and (e) of section 6865 of this title, not to exceed \$200,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992, 1993, and 1994.

(b) There are authorized to be appropriated for purposes of carrying out the weatherization program under subsections (d) and (e) of section 6865 of this title, not to exceed \$20,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994.

(Pub. L. 94-385, title IV, §422, Aug. 14, 1976, 90 Stat. 1158; Pub. L. 95-619, title II, §231(d), Nov. 9, 1978, 92 Stat. 3226; Pub. L. 96-294, title V, §576, June 30, 1980, 94 Stat. 760; Pub. L. 98-181, title IV, §464, Nov. 30, 1983, 97 Stat. 1235; Pub. L. 101-440, §8(c), Oct. 18, 1990, 104 Stat. 1016.)

AMENDMENTS

1990—Pub. L. 101-440 amended section generally. Prior to amendment, section read as follows: “Of the funds authorized by section 1005(1) of the Omnibus Budget Reconciliation Act of 1981 for energy conservation for fiscal year 1984, not less than \$190,000,000 is authorized to be appropriated to carry out the weatherization program under this part. There is authorized to be appropriated such sums as may be necessary for fiscal year 1985 to carry out such weatherization program. Any amount appropriated under this section shall remain available until expended.”

1983—Pub. L. 98-181 amended section generally, providing that, of the funds authorized by section 1005(1) of the Omnibus Budget Reconciliation Act of 1981 for energy conservation for fiscal year 1984, not less than \$190,000,000 was authorized to be appropriated to carry out the weatherization program under this part, and substituted provisions authorizing the appropriation of such sums as may be necessary for fiscal year 1985 to carry out the weatherization program for provisions

that had authorized the appropriations of \$55,000,000 for the fiscal year ending on Sept. 30, 1977, \$130,000,000 for the fiscal year ending on Sept. 30, 1978, \$200,000,000 for the fiscal year ending on Sept. 30, 1979, \$200,000,000 for the fiscal year ending on Sept. 30, 1980, and \$200,000,000 for the fiscal year ending on Sept. 30, 1981.

1980—Pub. L. 96-294 inserted provisions authorizing to be appropriated \$200,000,000 for fiscal year ending on Sept. 30, 1981, such sums to remain available until expended, substituted “the sum of” for “not to exceed” wherever appearing.

1978—Pub. L. 95-619 substituted an appropriations authorization of not to exceed \$130,000,000 for fiscal year ending Sept. 30, 1978, for an authorization of not to exceed \$65,000,000 for such fiscal year, substituted an authorization of not to exceed \$200,000,000 for fiscal year ending Sept. 30, 1979, for an authorization of \$80,000,000 for such fiscal year, and added an authorization of not to exceed \$200,000,000 for fiscal year ending Sept. 30, 1980.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6865 of this title.

§ 6873. Availability of labor

The following actions shall be taken in order to assure that there is a sufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Job Training Partnership Act [29 U.S.C. 1501 et seq.] and the Older American Community Service Employment Act [42 U.S.C. 3056 et seq.], available to work in support of weatherization programs conducted under part A of the Energy Conservation in Existing Buildings Act of 1976 [42 U.S.C. 6861 et seq.], section 222(a)(12)¹ of the Economic Opportunity Act of 1964 [42 U.S.C. 2809(a)(12)], and section 504 of the Housing Act of 1949 [42 U.S.C. 1474]:

(1) First, the Secretary of Energy (in consultation with the Director of the Community Services Administration, the Secretary of Agriculture, and the Secretary of Labor) shall determine the number of individuals needed to supply sufficient labor to carry out such weatherization programs in the various areas of the country.

(2) After the determination in paragraph (1) is made, the Secretary of Labor shall identify the areas of the country in which there is an insufficient number of such volunteers and training participants and public service employment workers.

(3) After such areas are identified, the Secretary of Labor shall take steps to assure that such weatherization programs are supported to the maximum extent practicable in such areas by such volunteers and training participants and public service employment workers.

(Pub. L. 95-619, title II, §233, Nov. 9, 1978, 92 Stat. 3227; Pub. L. 97-300, title I, §183, Oct. 13, 1982, 96 Stat. 1357.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in text, is Pub. L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

The Older American Community Service Employment Act, referred to in text, is title V of Pub. L. 89-73,

¹ See References in Text note below.

as added Pub. L. 94-135, title I, §113(a), Nov. 28, 1975, 89 Stat. 720, and amended, which is classified generally to subchapter IX (§3056 et seq.) of chapter 35 of this title. For complete classification of this Act to the Code, see Short Title of 1975 Amendment note set out under section 3001 of this title and Tables.

The Energy Conservation in Existing Buildings Act of 1976, referred to in text, is title IV of Pub. L. 94-385, Aug. 14, 1976, 90 Stat. 1150, as amended. Part A of the Energy Conservation in Existing Buildings Act of 1976 is classified generally to part A (§6861 et seq.) of subchapter III of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of this title and Tables.

Section 222(a)(12) of the Economic Opportunity Act of 1964 [42 U.S.C. 2809(a)(12)], referred to in text, which was redesignated as section 222(a)(5) [42 U.S.C. 2809(a)(5)] by Pub. L. 95-568, §5(a)(2)(E), Nov. 2, 1978, 92 Stat. 2426, was subsequently repealed by Pub. L. 97-35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519.

CODIFICATION

“Job Training Partnership Act [29 U.S.C. 1501 et seq.]” substituted in text for “Comprehensive Employment Training Act of 1973 [29 U.S.C. 801 et seq.]” pursuant to section 183 of the Job Training Partnership Act, Pub. L. 97-300, title I, Oct. 13, 1982, 96 Stat. 1357, which is classified to section 1592 of Title 29, Labor, and which provided in part that references in any other statute to Comprehensive Employment and Training Act shall be deemed to refer to Job Training Partnership Act.

Section was enacted as a part of the National Energy Conservation Policy Act, and not as a part of the Energy Conservation and Production Act which comprises this chapter.

COMMUNITY SERVICES ADMINISTRATION

Community Services Administration, which was established by section 601 of Economic Opportunity Act of 1964, as amended (42 U.S.C. 2941), terminated when Economic Opportunity Act of 1964, Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended, was repealed, except for titles VIII and X, effective Oct. 1, 1981, by section 683(a) of Pub. L. 97-35, title VI, Aug. 13, 1981, 95 Stat. 519, which is classified to 42 U.S.C. 9912(a). An Office of Community Services, headed by a Director, was established in Department of Health and Human Services by section 676 of Pub. L. 97-35, which is classified to 42 U.S.C. 9905.

PART B—ENERGY CONSERVATION AND RENEWABLE-RESOURCE OBLIGATION GUARANTEES

CODIFICATION

This part was, in the original, designated part D and has been redesignated part B for purposes of codification.

§ 6881. Energy resource and renewable-resource obligation guarantee program

(a) Authorization; requirements for guarantees and commitments to guarantee; procedures

(1) The Secretary may, in accordance with this section and such rules as he shall prescribe after consultation with the Secretary of the Treasury, guarantee and issue commitments to guarantee the payment of the outstanding principal amount of any loan, note, bond, or other obligation evidencing indebtedness, if—

(A) such obligation is entered into or issued by any person or by any State, political subdivision of a State, or agency and instrumentality of either a State or political subdivision thereof; and

(B) the purpose of entering into or issuing such obligation is the financing of any energy

conservation measure or renewable-resource energy measure which is to be installed or otherwise implemented in any building or industrial plant owned or operated by the person or State, political subdivision of a State, or agency or instrumentality of either a State or political subdivision thereof, (i) which enters into or issues such obligation, or (ii) to which such measure is leased.

(2) No guarantee or commitment to guarantee may be issued under this subsection with respect to any obligation—

(A) which is a general obligation of a State; or

(B) which is entered into or issued for the purpose of financing any energy conservation measure or renewable-resource energy measure which is to be installed or otherwise implemented in a residential building containing 2 or fewer dwelling units.

(3) Before prescribing rules pursuant to this subsection, the Secretary shall consult with the Administrator of the Small Business Administration in order to formulate procedures which would assist small business concerns in obtaining guarantees and commitments to guarantee under this section.

(b) Preconditions for issuance of guarantees and commitments to guarantee

No obligation may be guaranteed, and no commitment to guarantee an obligation may be issued, under subsection (a) of this section, unless the Secretary finds that the measure which is to be financed by such obligation—

(1) has been identified by an energy audit to be an energy conservation measure or a renewable-resource energy measure; or

(2) is included on a list of energy conservation measures and renewable-resource energy measures which the Secretary publishes under section 6325(e)(1) of this title.

Before issuing a guarantee under subsection (a) of this section, the Secretary may require that an energy audit be conducted with respect to an energy conservation measure or a renewable-resource energy measure which is on a list described in paragraph (2) and which is to be financed by the obligation to be guaranteed under this section. The amount of any obligation which may be guaranteed under subsection (a) of this section may include the cost of an energy audit.

(c) Limitations on availability of guarantees; term of guarantees; aggregate outstanding principal amount of obligations of one borrower

(1) The Secretary shall limit the availability of a guarantee otherwise authorized by subsection (a) of this section to obligations entered into by or issued by borrowers who can demonstrate that financing is not otherwise available on reasonable terms and conditions to allow the measure to be financed.

(2) No obligation may be guaranteed by the Secretary under subsection (a) of this section unless the Secretary finds—

(A) there is a reasonable prospect for the repayment of such obligation; and

(B) in the case of an obligation issued by a person, such obligation constitutes a general obligation of such person for such guarantee.

(3) The term of any guarantee issued under subsection (a) of this section may not exceed 25 years.

(4) The aggregate outstanding principal amount which may be guaranteed under subsection (a) of this section at any one time with respect to obligations entered into or issued by any borrower may not exceed \$5,000,000.

(d) Limitations on original principal amount guaranteed; revocation of guarantees and commitments to guarantee; conclusiveness of guarantee

The original principal amount guaranteed under subsection (a) may not exceed 90 percent of the cost of the energy conservation measure or the renewable-resource energy measure financed by the obligation guaranteed under such subsection; except that such amount may not exceed 25 percent of the fair market value of the building or industrial plant being modified by such energy conservation measure or renewable-resource energy measure. No guarantee issued, and no commitment to guarantee, which is issued under subsection (a) of this section shall be terminated, canceled, or otherwise revoked except in accordance with reasonable terms and conditions prescribed by the Secretary, after consultation with the Secretary of the Treasury, and contained in the written guarantee or commitment to guarantee. The full faith and credit of the United States is pledged to the payment of all guarantees made under subsection (a) of this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation except for fraud or material misrepresentation on the part of such holder.

(e) Information and assurances required prior to guarantees and commitments to guarantee; maintenance and availability of records; fees to borrowers; exceptions

(1) No guarantee and no commitment to guarantee may be issued under subsection (a) of this section unless the Secretary obtains any information reasonably requested and such assurances as are in his judgment (after consultation with the Secretary of the Treasury) reasonable to protect the interests of the United States and to assure that such guarantee or commitment to guarantee is consistent with and will further the purpose of this subchapter. The Secretary shall require that records be kept and made available to the Secretary or the Comptroller General, or any of their duly authorized representatives, in such detail and form as are determined necessary to facilitate (A) an effective financial audit of the energy conservation measure or renewable-resource energy measure investment involved, and (B) an adequate evaluation of the effectiveness of this section. The Secretary and the Comptroller General, or any of their duly authorized representatives, shall have access to pertinent books, documents, papers, and records

of any recipient of Federal assistance under this section.

(2) The Secretary may collect a fee from any borrower with respect to whose obligation a guarantee or commitment to guarantee is issued under subsection (a) of this section; except that the Secretary may waive any such fee with respect to any such borrower or class of borrowers. Fees shall be designed to recover the estimated administrative expenses incurred under this part; except that the total of the fees charged any such borrower may not exceed (A) one percent of the amount of the guarantee, or (B) one-half percent of the amount of the commitment to guarantee, whichever is greater. Any amount collected under this paragraph shall be deposited in the miscellaneous receipts of the Treasury.

(f) Default in payment of principal due under guaranteed obligation; procedures applicable

(1) If there is a default by the obligor in any payment of principal due under an obligation guaranteed under subsection (a) of this section, and if such default continues for 30 days, the holder of such obligation or his agent has the right to demand payment by the Secretary of the unpaid principal of such obligation, consistent with the terms of the guarantee of such obligation. Such payment may be demanded within such period as may be specified in the guarantee or related agreements, which period shall expire not later than 90 days from the date of such default. If demand occurs within such specified period, then not later than 60 days from the date of such demand, the Secretary shall pay to such holder the unpaid principal of such obligation, consistent with the terms of the guarantee of such obligation; except that (A) the Secretary shall not be required to make any such payment if he finds, prior to the expiration of the 60-day period beginning on the date on which the demand is made, that there was no default by the obligor in the payment of principal or that such default has been remedied, and (B) no such holder shall receive payment or be entitled to retain payment in a total amount which together with any other recovery (including any recovery based upon any security interest) exceeds the actual loss of principal by such holder.

(2) If the Secretary makes payment to a holder under paragraph (1), the Secretary shall thereupon—

(A) have all of the rights granted to him by law or agreement with the obligor; and

(B) be subrogated to all of the rights which were granted such holder, by law, assignment, or security agreement applicable to the guaranteed obligation.

(3) The Secretary may, in his discretion, take possession of, complete, recondition, reconstruct, renovate, repair, maintain, operate, remove, charter, rent, sell, or otherwise dispose of any property or other interests obtained by him pursuant to this subsection. The terms of any such sale or other disposition shall be as approved by the Secretary.

(4) If there is a default by the obligor in any payment due under an obligation guaranteed under subsection (a) of this section, the Secretary shall take such action against such obli-

gor or any other person as is, in his discretion, necessary or appropriate to protect the interests of the United States. Such an action may be brought in the name of the United States or in the name of the holder of such obligation. Such holder shall make available to the Secretary all records and evidence necessary to prosecute any such suit. The Secretary may, in his discretion, accept a conveyance of property in full or partial satisfaction of any sums owed to him. If the Secretary receives, through the sale of property, an amount greater than his cost and the amount paid to the holder under paragraph (1), he shall pay such excess to the obligor.

(g) Limitation on aggregate outstanding principal amount of obligations guaranteed; time limitation on guarantees and commitments to guarantee; authorization of appropriations

(1) The aggregate outstanding principal amount of obligations which may be guaranteed under this section may not at any one time exceed \$2,000,000,000. No guarantee or commitment to guarantee may be issued under subsection (a) of this section after September 30, 1979.

(2) There is authorized to be appropriated for the payment of amounts to be paid under subsection (f) of this section, not to exceed \$60,000,000. Any amount appropriated pursuant to this paragraph shall remain available until expended.

(3) There is authorized to be appropriated to carry out the provisions of this part, including administrative costs, but not for the payment of amounts to be paid under subsection (f) of this section—

(A) for the fiscal year ending September 30, 1977, not to exceed \$1,836,000; and

(B) for the fiscal year ending September 30, 1978, not to exceed \$4,950,000.

(h) Wages paid laborers and mechanics; labor standards

All laborers and mechanics employed in construction, alteration, or repair which is financed by an obligation guaranteed under subsection (a) of this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act [40 U.S.C. 276a et seq.]. The Secretary shall not guarantee any obligations under subsection (a) of this section without first obtaining adequate assurance that these labor standards will be maintained during such construction, alteration, or repair. The Secretary of Labor shall, with respect to the labor standards in this subsection, have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of title 40.

(i) Definitions

As used in this part:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "Comptroller General" means the Comptroller General of the United States.

(3) The terms "energy audit", "energy conservation measure", "renewable-resource energy measure", "building", and "industrial plant" have the meanings prescribed for such terms in section 6326 of this title.

(Pub. L. 94-385, title IV, §451, Aug. 14, 1976, 90 Stat. 1165; Pub. L. 95-70, §5, July 21, 1977, 91 Stat. 277; Pub. L. 95-91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 104-316, title I, §122(q), Oct. 19, 1996, 110 Stat. 3838.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (e)(1), was in the original "this title", meaning title IV of Pub. L. 94-385, known as the Energy Conservation in Existing Buildings Act of 1976, which enacted this subchapter, section 6327 of this title, and section 1701z-8 of Title 12, Banks and Banking, amended sections 6323, 6325, and 6326 of this title, and enacted provisions set out as a note under section 6801 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of this title and Tables.

The Davis-Bacon Act, referred to in subsec. (h), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (h), is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In subsec. (i)(1), "The term 'Secretary' means the Secretary of Energy" substituted for "The term 'Administrator' means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part" in view of termination of Federal Energy Administration and transfer of its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy pursuant to sections 301(a), 703, and 707 of Pub. L. 95-91, which are classified to sections 7151(a), 7293, and 7297 of this title.

AMENDMENTS

1996—Subsecs. (d), (e)(1). Pub. L. 104-316 struck out "and the Comptroller General" after "Secretary of the Treasury".

1977—Subsec. (g)(3). Pub. L. 95-70 added par. (3).

TRANSFER OF FUNCTIONS

"Secretary", meaning Secretary of Energy, substituted for "Administrator", meaning Administrator of Federal Energy Administration, in subsecs. (a) to (f) and (h) pursuant to sections 301(a), 703, and 707 of Pub. L. 95-91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Federal Energy Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6325 of this title.

PART C—MISCELLANEOUS PROVISIONS

CODIFICATION

This part was, in the original, designated Part E and has been redesignated Part C for purposes of codification.

§ 6891. Exchange of energy information among the States

The Secretary of Energy shall (through conferences, publications, and other appropriate means) encourage and facilitate the exchange of information among the States with respect to

energy conservation and increased use of non-depletable energy sources.

(Pub. L. 94-385, title IV, §461, Aug. 14, 1976, 90 Stat. 1168; Pub. L. 95-91, title III, §301(a), title VII, §703, Aug. 4, 1977, 91 Stat. 577, 606.)

TRANSFER OF FUNCTIONS

“Secretary of Energy” substituted in text for “Administrator”, meaning Administrator of Federal Energy Administration, pursuant to sections 301(a), 703, and 707 of Pub. L. 95-91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Federal Energy Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

§ 6892. Annual report to Congress by Comptroller General

(a) Requirements; access to information

For each fiscal year ending before October 1, 1979, the Comptroller General shall report to the Congress on the activities of the Secretary of Energy and the Secretary under this subchapter and any amendments to other statutes made by this subchapter. The provisions of section 771 of title 15 (relating to access by the Comptroller General to books, documents, papers, statistics, data, records, and information in the possession of the Secretary of Energy or of recipients of Federal funds) shall apply to data which relate to such activities.

(b) Contents of report

Each report submitted by the Comptroller General under subsection (a) of this section shall include—

- (1) an accounting, by State, of expenditures of Federal funds under each program authorized by this subchapter or by amendments made by this subchapter;
- (2) an estimate of the energy savings which have resulted thereby;
- (3) a thorough evaluation of the effectiveness of the programs authorized by this subchapter or by amendments made by this title in achieving the energy conservation or renewable resource potential available in the sectors and regions affected by such programs;
- (4) a review of the extent and effectiveness of compliance monitoring of programs established by this subchapter or by amendments made by this title and any evidence as to the occurrence of fraud with respect to such programs; and
- (5) the recommendations of the Comptroller General with respect to (A) improvements in the administration of programs authorized by this subchapter or by amendments made by this subchapter, and (B) additional legislation, if any, which is needed to achieve the purposes of this subchapter.

(c) Definitions

As used in this part:

- (1) Omitted
- (2) The term “Comptroller General” means the Comptroller General of the United States.
- (3) The term “Secretary” means the Secretary of Housing and Urban Development.

(Pub. L. 94-385, title IV, §462, Aug. 14, 1976, 90 Stat. 1168; Pub. L. 95-91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a), and (b)(1), (3), (4), (5), was in the original “this title”, meaning title IV of Pub. L. 94-385 which enacted this subchapter, section 6327 of this title, and section 1701z-8 of Title 12, Banks and Banking, amended sections 6323, 6325, and 6326 of this title, and enacted provisions set out as a note under section 6801 of this title.

CODIFICATION

Subsec. (c)(1) of this section which read “The term ‘Administrator’ means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part” has been omitted in view of termination of Federal Energy Administration and transfer of its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy pursuant to sections 301(a), 703, and 707 of Pub. L. 95-91, which are classified to sections 7151(a), 7293, and 7297 of this title and the fact that the term “Secretary” is defined for the purposes of this subchapter by par. (3) of this section. In this part, “Secretary of Energy” has been substituted for “Administrator” wherever it appears.

TRANSFER OF FUNCTIONS

“Secretary of Energy” substituted for “Administrator”, meaning Administrator of Federal Energy Administration, in subsec. (a) pursuant to sections 301(a), 703, and 707 of Pub. L. 95-91, which are classified to sections 7151(a), 7293, and 7297 of this title and which terminated Federal Energy Administration and transferred its functions and functions of Administrator thereof (with certain exceptions) to Secretary of Energy.

CHAPTER 82—SOLID WASTE DISPOSAL

SUBCHAPTER I—GENERAL PROVISIONS

Sec.	
6901.	Congressional findings. <ol style="list-style-type: none"> (a) Solid waste. (b) Environment and health. (c) Materials. (d) Energy.
6901a.	Congressional findings: used oil recycling.
6902.	Objectives and national policy. <ol style="list-style-type: none"> (a) Objectives. (b) National policy.
6903.	Definitions.
6904.	Governmental cooperation. <ol style="list-style-type: none"> (a) Interstate cooperation. (b) Consent of Congress to compacts.
6905.	Application of chapter and integration with other Acts. <ol style="list-style-type: none"> (a) Application of chapter. (b) Integration with other Acts. (c) Integration with the Surface Mining Control and Reclamation Act of 1977.
6906.	Financial disclosure. <ol style="list-style-type: none"> (a) Statement. (b) Action by Administrator. (c) Exemption. (d) Penalty.
6907.	Solid waste management information and guidelines. <ol style="list-style-type: none"> (a) Guidelines. (b) Notice.
6908.	Small town environmental planning. <ol style="list-style-type: none"> (a) Establishment. (b) Small Town Environmental Planning Task Force. (c) Identification of environmental requirements. (d) Small Town Ombudsman. (e) Multi-media permits.