the growth in demand for energy in the United States, and to conserve nonrenewable energy resources produced in this Nation and elsewhere, without inhibiting beneficial economic growth.


REFERENCES IN TEXT
This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 95–619, Nov. 9, 1978, 92 Stat. 3206, as amended, known as the National Energy Conservation Policy Act. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

AMENDMENTS

"(1) the United States faces an energy shortage arising from increasing demand for energy, particularly for oil and natural gas, and insufficient domestic supplies of oil and natural gas to satisfy that demand;

"(2) unless effective measures are promptly taken by the Federal Government and other users of energy to reduce the rate of growth of demand for energy, the United States will become increasingly dependent on the world oil market, increasingly vulnerable to interruptions of foreign oil supplies, and unable to provide the energy to meet future needs; and

"(3) all sectors of our Nation’s economy must begin immediately to significantly reduce the demand for nonrenewable energy resources such as oil and natural gas by implementing and maintaining effective conservation measures for the efficient use of these and other energy sources."

SHORT TITLE OF 1988 AMENDMENT
Pub. L. 100–615, §1, Nov. 5, 1988, 102 Stat. 3185, provided that: "This Act [enacting section 5001 of Title 15, Commerce and Trade, amending sections 6831 and 6832 to 6859 of this title, omitting sections 6200 and 6201 of this title, and enacting provisions set out as a note under section 8253 of this title] may be cited as the ‘Federal Energy Management Improvement Act of 1988.’"

SHORT TITLE OF 1986 AMENDMENT
Section 1 of Pub. L. 99–412 provided that: "This Act [enacting sections 8227 to 8229 of this title, amending sections 8201, 8211, 8212 to 8220, and 8226 of this title, repealing sections 8201 to 8211b, 8232 to 8262, 8282a, 8283a, and 8284 of this title, and enacting provisions set out as a note under section 8253 of this title] may be cited as the ‘Federal Energy Management Improvement Act of 1986.’"

SHORT TITLE
Section 101(a) of Pub. L. 95–619 provided that: "This Act [enacting this chapter, sections 14901, 6215, 6311 to 6317, 634a, 6371, 1471, 6372a to 6372i, 6373, 6373a, and 7141 of this title, and sections 1720h to 1720h of Title 12, Banks and Banking, amending sections 300k–2, 300n–1, 1437c, 1471, 1474, 1483, 6202, 6211, 6223 to 6224, 6234 to 6245, 6257, 6258 to 6259, 6291 to 6295, 6309 to 6312, 6312 to 6314, 6314 to 6316, 6331, 6331a, 6362, 6364a, 6365, and 6872 of this title, sections 1451, 1703, 1709, 1713, 1715a–6, 1717, and 1738f–4 of Title 12, and sections 2006 and 2006 of Title 15, Commerce and Trade, repealing section 6397 of this title, and enacting provisions set out as notes under this title, sections 6321, 634a and 6345, 6371, and 6372 of this title, section 2006 of Title 15, and section 217 of Title 23, Highways] may be cited as the ‘National Energy Conservation Policy Act.’"

Section 561 of Pub. L. 95–619 provided that: "This part [part 4 (§§561–569) of title V of Pub. L. 95–619, enacting sections 8271 to 8278 of this title] may be cited as the ‘Federal Photovoltaic Utilization Act.’"

SUBCHAPTER II—RESIDENTIAL ENERGY CONSERVATION
PART A—UTILITY PROGRAM

§§8211 to 8229. Omitted

CODIFICATION
Sections were omitted pursuant to section 8229 of this title, which terminated authority under this part June 30, 1989.


Section 8212, Pub. L. 95–619, title II, §211, Nov. 9, 1978, 92 Stat. 3211, related to coverage of this part.


Sections were omitted pursuant to section 8229 of this title, which terminated authority under this part June 30, 1989.
PART B—MISCELLANEOUS

§ 8231. Grants for energy conserving improvements; establishment of standards; authorization of appropriations

(a) General authority

The Secretary of Housing and Urban Development is authorized to make grants to finance energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 1703(a) of title 12) to projects which are financed with loans under section 1701q of title 12, or which are subject to mortgages insured under section 1715l(d)(5) or section 1715k–1 of title 12. The Secretary shall make assistance available under this section on a priority basis to those projects which are in financial difficulty as a result of high energy costs. In carrying out the program authorized by this section, the Secretary shall issue regulations requiring that any grant made under this section shall be made only on the condition that the recipient of such grant shall take steps (prescribed by the Secretary) to assure that the benefits derived from such grants in terms of lower energy costs shall accrue to tenants in the form of lower rentals or to the Federal Government in the form of a lower operating subsidy if such a subsidy is being paid to such recipient.

(b) Specific factors

(1) the savings in energy costs resulting from such a requirement; (2) the extent to which such a requirement would protect a prospective purchaser from the uncertainty of not knowing the energy efficiency of the property he proposes to purchase; (3) the extent to which such requirement would contribute to the Nation’s energy conservation goals; (4) the possible impact on sellers and purchasers as a result of the implementation of mandatory Federal actions, taking into account the experience of the Federal Government in imposing mandatory requirements concerning the purchase and sale of real property as occurred under the Real Estate Settlement Procedures Act of 1974 [12 U.S.C. 2601 et seq.] and the Federal Disaster Protection Act of 1973; (5) an analysis of the effect of such a requirement on the economy as a whole and on the Nation’s security as compared to the impact on the credit and housing markets caused by such a requirement; (6) the extent to which such a requirement might be imposed and any resulting effect of such mandatory actions on the price of those remaining dwelling units eligible for sale; and (7) the possible uncertainty, during the period of developing the standards, as to what standards might be imposed and any resulting effect on major housing rehabilitation efforts and voluntary efforts for energy conservation.

(c) Comments and findings by Secretary of Energy

The Secretary shall incorporate into such study comments by the Secretary of Energy on the effects on the economy as a whole and on the Nation’s security which may result from the requirement described in subsection (a) of this section as compared to the impact on the credit and housing markets likely to be caused by such a requirement. In addition, the Secretary shall incorporate into such study the following findings by the Secretary of Energy:

(1) the savings in energy costs resulting from the requirement described in subsection (a) of
this section throughout the estimated remaining useful life of the existing residential buildings to which such requirement would apply; and
(2) the total cost per barrel of oil equivalent, in obtaining the energy savings likely to result from such requirement, computed for each class of existing residential buildings to which such requirement would apply.

(d) Report date
The Secretary shall report, no later than one year after November 9, 1978, to both Houses of the Congress with regard to the findings made as a result of such study along with any recommendations for legislative proposals which the Secretary determines should be enacted with respect to the subject of such study.


REFERENCES IN TEXT


AMENDMENTS
1991—Subsec. (a). Pub. L. 102–54 substituted “Secretary of Veterans Affairs” for “Administrator of Veterans’ Affairs”.

§8233. Weatherization study
The President shall conduct a study which shall monitor the weatherization activities authorized by this Act and amendments made thereby and those weatherization activities undertaken, independently of this Act and such amendments. The President shall report to the Congress within one year from November 9, 1978, and annually thereafter, concerning—
(1) the extent of progress being made through weatherization activities toward the achievement of national energy conservation goals;
(2) adequacy and costs of materials necessary for weatherization activities; and
(3) the need for and desirability of modifying weatherization activities authorized by this Act, and amendments made thereby and of extending such activities to a broader range of income groups than are being assisted under this Act and such amendments.


REFERENCES IN TEXT

TERMINATION OF REPORTING REQUIREMENTS
For termination, effective May 15, 2000, of provisions in this section relating to the requirement that the President report annually to Congress, see section 3063 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the last item on page 40 of House Document No. 103–7.

PART C—RESIDENTIAL ENERGY EFFICIENCY PROGRAMS

§8235. “Residential building” defined
As used in this part, the term “residential building” means any building used as a residence which is not a new building to which final standards under sections 6833(a) and 6834 of this title apply and which has a system for heating, cooling, or both.


REFERENCES IN TEXT

STATEMENT OF PURPOSE
Section 561 of subtitle C (§§562–563) of title V of Pub. L. 96–294 provided that: “It is the purpose of this subtitle [enacting this part]—
(1) to establish a program under which the Secretary of Energy may provide assistance to State and local governments to encourage up to four demonstration programs that make energy conservation measures available without charge to residential property owners and tenants under a plan designed to maximize the energy savings available in residential buildings in designated areas; and
(2) to demonstrate through such program prototype residential energy efficiency plans under which State and local governments, State regulatory authorities, and public utilities may participate in a cooperative manner with public or private entities to install energy conservation measures in the greatest possible number of residential buildings within their respective jurisdictions or service areas.”

§8235a. Approval of plans for prototype residential energy efficiency programs and provision of financial assistance for such programs
(a) Plan approval
The Secretary may approve any plan developed by a State or local government, for the establishment of a prototype residential energy efficiency program, which is designed to demonstrate the feasibility, economics, and energy conserving potential of such program, if an application for such plan is submitted pursuant to section 8233b of this title, the application is approved pursuant to section 8235c of this title, and the plan provides for—
(1) the entering into a contract by a public utility with one or more persons not under the control of, and not affiliates or subsidiaries of, such utility for the implementation of a program to encourage energy conservation, in—

1 See References in Text note below.
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including the supply and installation of the energy conservation measures as specified in such contract in residential buildings located in the portion of the utility’s service area designated by the contract, which contract includes the provisions described in subsection (b) of this section:

(2) the selection by the public utility in a fair, open, and nondiscriminatory manner of the person or persons to contract with pursuant to paragraph (1):

(3) the payment by the public utility to the person or persons contracted with under paragraph (1) of a specified price for each unit of energy saved by such utility as a result of the program during the period the contract is in effect, which price is based on the value to the utility of the energy saved;

(4) the determination, by a procedure established by the State or local government developing the plan, of the amount of energy saved by a public utility as a result of the program carried out under the plan, which procedure is described in the contract;

(5) in the case of a regulated public utility, the approval in writing by the State regulatory authority exercising ratemaking authority over such utility of the contract described in paragraph (1), the manner of selection described in paragraph (2), the payment described in paragraph (3), and the procedure described in paragraph (4); and

(6) the enforcement of the provisions of the contract, entered into pursuant to paragraph (1), which are required to be included pursuant to subsection (b) of this section.

(b) Contract requirements

Any contract entered into by a public utility under subsection (a)(1) of this section shall require any person or persons entering into such contract with a public utility to offer to the owner or occupant of each residential building in the portion of the utility’s service area designated in the contract, without charge—

(A) the energy conservation measures which will be supplied and installed in such residential building pursuant to paragraph (2);

(B) the savings in energy costs that are likely to result from the installation of such energy conservation measures;

(C) suggestions (including suggestions developed by the Secretary) of energy conservation techniques, including adjustments in energy use patterns and modifications in household activities, which can be used by the owner or occupant of the building to save energy and which do not require the installation of energy conservation measures; and

(D) the savings in energy costs that are likely to result from the adoption of such suggested energy conservation techniques;

(2) the supply and installation, with the approval of the owner of the residential building, in such building in a timely manner of the energy conservation measures which are as specified in the contract and which the owner or occupant was informed (pursuant to the inspection under paragraph (1)) would be supplied and installed in such building; and

(3) a written warranty that at a minimum any defect in materials, manufacture, design, or installation of any energy conservation measures supplied and installed pursuant to paragraph (2), found not later than one year after the date of installation, will be remedied without charge and within a reasonable period of time.

(c) Provision of financial assistance

The Secretary may provide financial assistance to any State or local government to carry out any plan for the establishment of a prototype residential energy efficiency program if the plan is approved under subsection (a) of this section.

(d) Limitation

The Secretary may approve under subsection (a) of this section not more than 4 plans for the establishment of prototype residential energy efficiency programs.


§ 8235b. Applications for approval of plans for prototype residential energy efficiency programs

Each application for the approval of a plan under section 8235a(a) of this title for the establishment of a prototype residential energy efficiency program shall be submitted by a State or local government and shall include, at least—

(1) a description of the plan, including the provisions of the plan specified in section 8235a(a) of this title and a description of the portion of the service area of the public utility proposing to enter into a contract under section 8235a(a)(1) of this title which is designated under the contract;

(2) a description of the manner in which the provisions of the plan specified in section 8235a(a) of this title are to be met;

(3) a description of the contract to be entered into pursuant to section 8235a(a)(1) of this title and the manner in which the requirements of the contract contained in section 8235a(b) of this title are to be met;

(4) the record of the public hearing conducted pursuant to section 8235c(a)(2) of this title; and

(5) any other information determined by the Secretary to be necessary to carry out this part.


§ 8235c. Approval of applications for plans for prototype residential energy efficiency programs

(a) Approval requirements

The Secretary may approve an application submitted under section 8235b of this title for a plan establishing a prototype residential energy efficiency program only if—

(1) the application is approved in writing—

(A) by the public utility which is to enter into the contract under the plan;
(B) by the State regulatory authority having ratemaking authority over such public utility, in the case of a regulated utility; and

(C) by the Governor (or any State agency specifically authorized under State law to approve such plans) of the State whose government is submitting the application (if the application is submitted by a State government) or of the State in which the local government is located (if the application is submitted by a local government); and

(2) the application has been published, a public hearing on the application has been conducted, and notice has been given to the public, at which representatives of the public utility which is to enter into the contract under the plan, persons engaged in the supply or installation of residential energy conservation measures, and members of the public (including ratepayers of such public utility and other interested individuals) had an opportunity to provide comment on the application, and any amendments to the application, which may be made to take into account the proceedings of the hearing, are made.

(b) Factors in approving applications

The Secretary shall take into consideration in approving an application under subsection (a) of this section for a plan establishing a prototype residential energy efficiency program—

(1) the potential for energy savings from the demonstration of the program;

(2) the likelihood that the value of the energy saved by public utilities under the program will be sufficient to cover the estimated cost of the energy conservation measures to be supplied and installed under the program;

(3) the anticipated effects of the program on competition in the portion of the service area of the public utility designated in the contract entered into under the plan; and

(4) such other factors as the Secretary determines are appropriate.


§8235f. Rules and regulations

(a) Proposed rules and regulations

The Secretary shall issue proposed rules and regulations to carry out this part not later than 120 days after June 30, 1980.

(b) Final rules and regulations

The Secretary shall issue final rules and regulations to carry out this part not later than 90 days after the issuance of proposed rules and regulations under subsection (a) of this section.


§8235e. Authority of Federal Energy Regulatory Commission to exempt application of certain laws

The Federal Energy Regulatory Commission may exempt from any provisions in sections 4, 5, and 7 of the Natural Gas Act (15 U.S.C. 717c, 717d, and 717f) and titles II and IV of the Natural Gas Policy Act of 1978 (15 U.S.C. 3341 through 3348 and 3391 through 3394) the sale or transportation, by any public utility, local distribution company, interstate or intrastate pipeline, or any other person, of any natural gas which is determined (in the case of a regulated utility, company, pipeline, or person) by the State regulatory authority having rate-making authority over such utility, company, pipeline, or person, or (in the case of a nonregulated utility, company, pipeline, or person) by such utility, company, pipeline, or person, to have been conserved because of a prototype residential energy efficiency program which is established under a plan approved under section 8235a(a) of this title, if the Commission determines that such exemption is necessary to make feasible the demonstration of such prototype residential energy efficiency program.


References in Text


Amendments


§8235f. Application of other laws

(a) Lack of immunity

No provision contained in this part—

(1) shall restrict any agency of the United States or any State from exercising its powers under any law to prevent unfair methods of competition and unfair or deceptive acts or practices;

(2) shall provide to any person any immunity from civil or criminal liability;

(3) shall create any defenses to actions brought under the antitrust laws; or

(4) shall modify or abridge any private right of action under the antitrust laws.

(b) Utility programs under part A

Any public utility entering into a contract under a plan for the establishment of a prototype residential energy efficiency program approved under section 8235a(a) of this title shall not be required to carry out, with respect to any residential building located in the portion of the utility’s service area designated in the contract, the actions required to be contained in such utility’s program by subsections (a) and (b) of section 82161 of this title, if the contract requires such actions (or equivalent actions as determined by the Secretary) to be taken.

1 See References in Text note below.
(c) "Antitrust laws" defined

For purposes of this section, the term "antitrust laws" means—

(1) the Sherman Act (15 U.S.C. 1 et seq.);,
(2) the Clayton Act (15 U.S.C. 12 et seq.);
(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);
(4) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9); and
(5) sections 2, 3, and 4 of the Act entitled "An Act to amend section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved August 2, 1890" (15 U.S.C. 21a, 13a, and 13b, commonly known as the Robinson-Patman Antidiscrimination Act).


REFERENCES IN TEXT

Section 8216 of this title, referred to in subsec. (b), was omitted from the Code pursuant to section 8229 of this title, which terminated authority under that section June 30, 1980.

The Sherman Act (15 U.S.C. 1 et seq.), referred to in subsec. (c)(1), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

The Clayton Act (15 U.S.C. 12 et seq.), referred to in subsec. (c)(2), is act Oct. 15, 1914, ch. 321, 38 Stat. 790, as amended, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 18. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.), referred to in subsec. (c)(3), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

§ 8235g. Records and reports

(a) Records

Each State and local government submitting any application for a plan which is approved under section 8235a(a) of this title, and each public utility and person or persons entering into a contract under such a plan, shall keep such records and make such reports as the Secretary may require. The Secretary and the Comptroller General of the United States shall have access, at reasonable times and under reasonable conditions, to any books, documents, papers, records, and reports of each such State and local government, utility, and person or persons which the Secretary determines, in consultation with the Comptroller General of the United States, are pertinent to this part.

(b) Reports

The Secretary shall make an annual report to the President on the activities carried out under this part which shall be submitted to the Congress with the annual report on the activities of the Department of Energy required by section 7267 of this title and which shall contain—

(1) an estimate of the total amount of energy saved as a result of the activities carried out under this part;
(2) an estimate of the annual savings in energy anticipated as a result of each prototype residential energy efficiency program established under a plan approved under section 8235a(a) of this title;
(3) an analysis, developed in consultation with the Federal Trade Commission and the Department of Justice, of the impact on competition of each prototype residential energy efficiency program established under a plan approved under section 8235a(a) of this title; and
(4) if the Secretary determines that it is appropriate, an analysis of the impact of expanding the approval of plans under section 8235a(a) of this title to establish prototype residential energy efficiency programs, and the provision of financial assistance to such programs, on a national basis and an assessment of the alternative methods by which such an expansion could be accomplished.


§ 8235h. Revoking approval of plans and terminating financial assistance

The Secretary shall revoke the approval of any plan under section 8235a(a) of this title for the establishment of a prototype residential energy efficiency program, and shall terminate the provision of financial assistance under section 8235a(c) of this title to carry out such plan, if the Secretary determines, in consultation with the Federal Trade Commission and after notice and the opportunity for a hearing, that carrying out such plan—

(1) causes unfair methods of competition;
(2) has a substantial adverse effect on competition in the portion of the service area of the public utility designated by the contract entered into under the plan; or
(3) provides a supplier or contractor of energy conservation measures with an unreasonably large share of the contracts for the supply or installation of such measures under such plan in the service area of the public utility designated by the contract entered into under such plan.


§ 8235i. Authorization of appropriations

(a) Authorization of appropriations

There is authorized to be appropriated to carry out this part—

(1) the sum of $10,000,000 for the fiscal year ending on September 30, 1981; and
(2) the sum equal to $10,000,000 minus the amount appropriated for the fiscal year ending on September 30, 1981, under the authorization contained in this section, for the fiscal year ending on September 30, 1982.

(b) Availability

Any funds appropriated under the authorization contained in this section shall remain available until expended.
PART D—RESIDENTIAL ENERGY EFFICIENCY RATING GUIDELINES

§ 8236. Voluntary rating guidelines

(a) In general

Not later than 18 months after October 24, 1992, the Secretary, in consultation with the Secretary of Housing and Urban Development, the Secretary of Veterans Affairs, representatives of existing home energy rating programs, and other appropriate persons, shall, by rule, issue voluntary guidelines that may be used by State and local governments, utilities, builders, real estate agents, lenders, agencies in mortgage markets, and others, to enable and encourage the assignment of energy efficiency ratings to residential buildings.

(b) Contents of guidelines

The voluntary guidelines issued under subsection (a) of this section shall—

(1) encourage uniformity with regard to systems for rating the annual energy efficiency of residential buildings;

(2) establish protocols and procedures for—

(A) certification of the technical accuracy of building energy analysis tools used to determine energy efficiency ratings;

(B) training of personnel conducting energy efficiency ratings;

(C) data collection and reporting;

(D) quality control; and

(E) monitoring and evaluation;

(3) encourage consistency with, and support for, the uniform plan for Federal energy efficient mortgages, including that developed under section 946 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12712 note) and pursuant to sections 105 and 106 of the Energy Policy Act of 1992;

(4) provide that rating systems take into account local climate conditions and construction practices, solar energy collected on-site, and the benefits of peak load shifting construction practices, and not discriminate among fuel types; and

(5) establish procedures to ensure that residential buildings can receive an energy efficiency rating at the time of sale and that such rating is communicated to potential buyers.

§ 8236b. Report

Not later than 3 years after October 24, 1992, the Secretary shall transmit to the President and the Congress a final report containing—

(1) a description of actions taken by the Secretary and other Federal agencies to implement this part;

(2) a description of the action taken by States, local governments, and other organizations to implement the voluntary guidelines issued under section 8236 of this title and any problems encountered in implementing such guidelines; and

(3) recommendations on the feasibility of requiring, as a prerequisite to receiving federally assisted, guaranteed, or insured mortgages, the achievement of a minimum energy efficiency rating.

§ 8241. Definitions

As used in the part—

(1) The term “Federal agency” means—

(A) an Executive agency as defined in section 105 of title 5; and

(B) each entity specified in subparagraphs (B) through (I) of subsection (1) of section 5721 of title 5.

(2) The term “Federal building” means any building or other structure owned in whole or part by the United States or any Federal agency, including any such structure occupied by a Federal agency under a lease-acquisition agreement under which the United States or a Federal agency will receive fee simple title to any Federal building, the use of solar energy to meet all or part of the needs of such building for hot water, or all or part of the needs of such building for hot water.

(3) The term “solar heating” means, with respect to any Federal building, the use of solar energy to meet all or part of the heating needs of such building (including hot water), or all or part of the needs of such building for hot water.

(4) The term “solar heating and cooling” means the use of solar energy to provide all or part of the heating needs of a Federal building (including hot water) and all or part of the cooling needs of such building, or all or part of the needs of such building for hot water.

(5) The term “solar energy equipment” means equipment for solar heating or solar heating and cooling.