

(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; Pub. L. 110-140, title IV, §433(b), Dec. 19, 2007, 121 Stat. 1614.)

#### 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

2007—Par. (6). Pub. L. 110-140 struck out “which is not legally subject to State or local building codes or similar requirements” after “any Federal agency” and inserted at end “Such term shall include buildings built for the purpose of being leased by a Federal agency, and privatized military housing.”

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 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

#### 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,<sup>1</sup> (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

<sup>1</sup> So in original. The comma probably should not appear.

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, including increasing and verifying compliance with such 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) Additional funding shall be provided under this subsection for implementation of a plan to achieve and document at least a 90 percent rate of compliance with residential and commercial building energy efficiency codes, based on energy performance—

(A) to a State that has adopted and is implementing, on a statewide basis—

(i) a residential building energy efficiency code that meets or exceeds the requirements of the 2004 International Energy Conservation Code, or any succeeding version of that code that has received an affirmative determination from the Secretary under subsection (a)(5)(A) of this section; and

(ii) a commercial building energy efficiency code that meets or exceeds the requirements of the ASHRAE Standard 90.1-2004, or any succeeding version of that standard that has received an affirmative determination from the Secretary under subsection (b)(2)(A) of this section; or

(B) in a State in which there is no statewide energy code either for residential buildings or for commercial buildings, to a local government that has adopted and is implementing residential and commercial building energy efficiency codes, as described in subparagraph (A).

(3) Of the amounts made available under this subsection, the Secretary may use \$500,000 for each fiscal year to train State and local officials to implement codes described in paragraph (2).

(4)(A) There are authorized to be appropriated to carry out this subsection—

(i) \$25,000,000 for each of fiscal years 2006 through 2010; and

(ii) such sums as are necessary for fiscal year 2011 and each fiscal year thereafter.

(B) Funding provided to States under paragraph (2) for each fiscal year shall not exceed one-half of the excess of funding under this subsection over \$5,000,000 for the fiscal year.

(Pub. L. 94-385, title III, §304, as added Pub. L. 102-486, title I, §101(a)(2), Oct. 24, 1992, 106 Stat. 2783; amended Pub. L. 109-58, title I, §128, Aug. 8, 2005, 119 Stat. 619.)

**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.

#### AMENDMENTS

2005—Subsec. (e)(1). Pub. L. 109-58, § 128(1), inserted “, including increasing and verifying compliance with such codes” before period at end of first sentence.

Subsec. (e)(2) to (4). Pub. L. 109-58, § 128(2), added pars. (2) to (4) and struck out former par. (2) which read as follows: “There are authorized to be appropriated such sums as may be necessary to carry out this subsection.”

### § 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 energy saving and renewable energy specifications of the 2004 International Energy Conservation Code (in the case of residential buildings) or ASHRAE Standard 90.1-2004 (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.

(3)(A) Not later than 1 year after August 8, 2005, the Secretary shall establish, by rule, revised Federal building energy efficiency performance standards that require that—

(i) if life-cycle cost-effective for new Federal buildings—

(I) the buildings be designed to achieve energy consumption levels that are at least 30 percent below the levels established in the version of the ASHRAE Standard or the International Energy Conservation Code, as appropriate, that is in effect as of August 8, 2005; and

(II) sustainable design principles are applied to the siting, design, and construction of all new and replacement buildings;

(ii) if water is used to achieve energy efficiency, water conservation technologies shall be applied to the extent that the technologies are life-cycle cost-effective; and

(iii) if lifecycle cost-effective, as compared to other reasonably available technologies, not less than 30 percent of the hot water demand for each new Federal building or Federal building undergoing a major renovation be met through the installation and use of solar hot water heaters.

(B) Not later than 1 year after the date of approval of each subsequent revision of the ASHRAE Standard or the International Energy Conservation Code, as appropriate, the Secretary shall determine, based on the cost-effectiveness of the requirements under the amendment, whether the revised standards established under this paragraph should be updated to reflect the amendment.

(C) In the budget request of the Federal agency for each fiscal year and each report submitted by the Federal agency under section 8258(a) of this title, the head of each Federal agency shall include—

(i) a list of all new Federal buildings owned, operated, or controlled by the Federal agency; and

(ii) a statement specifying whether the Federal buildings meet or exceed the revised standards established under this paragraph.

(D) Not later than 1 year after December 19, 2007, the Secretary shall establish, by rule, revised Federal building energy efficiency performance standards that require that:

(i) For new Federal buildings and Federal buildings undergoing major renovations, with respect to which the Administrator of General Services is required to transmit a prospectus to Congress under section 3307 of title 40, in the case of public buildings (as defined in section 3301 of title 40), or of at least \$2,500,000 in costs adjusted annually for inflation for other buildings:

(I) The buildings shall be designed so that the fossil fuel-generated energy consumption of the buildings is reduced, as compared with such energy consumption by a similar building in fiscal year 2003 (as measured by Commercial Buildings Energy Consumption Survey or Residential Energy Consumption Survey data from the Energy Information Agency), by the percentage specified in the following table:

Fiscal Year	Percentage Reduction
2010 .....	55
2015 .....	65
2020 .....	80
2025 .....	90
2030 .....	100.

(II) Upon petition by an agency subject to this subparagraph, the Secretary may adjust the applicable numeric requirement under subclause (I) downward with respect to a specific building, if the head of the agency designing the building certifies in writing that meeting such requirement would be technically impracticable in light of the agency's specified functional needs for that building and the Secretary concurs with the agency's conclusion. This subclause shall not apply to the General Services Administration.