

## NATIONAL ENERGY CONSERVATION POLICY ACT

[Public Law 95–619]

[As Amended Through P.L. 117–81, Enacted December 27, 2021]

【Currency: This publication is a compilation of the text of Public Law 95–619. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT For the relief of Jack R. Misner.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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【42 U.S.C. 8201 note】

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<sup>1</sup> So in law. See amendment made by section 2(c) of P.L. 100–615 (102 Stat. 3189).

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**SEC. 102. FINDINGS AND STATEMENT OF PURPOSES.**

(a) **FINDINGS.**—The Congress finds that—

(1) the United States has survived a period of energy shortage and has made significant progress toward improving energy efficiency in all sectors of the economy;

(2) effective measures must continue to be taken by the Federal Government and other users and suppliers of energy to control the rate of growth of demand for energy and the efficiency of its use;

(3) the continuation of this effort will permit the United States to become increasingly independent of the world oil market, less vulnerable to interruption of foreign oil supplies, and more able to provide energy to meet future needs; and

(4) all sectors of the economy of the United States should continue to reduce significantly 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.

<sup>2</sup>For version of law for section 233 as amended by section X of Public Law 113-128, see note below. So in law. The item relating to section 570 in the table of sections probably should not appear. There is no corresponding section included in this Act.

(b) STATEMENT OF PURPOSES.—The purposes of this Act are to provide for the regulation of interstate commerce, to reduce 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.

[42 U.S.C. 8201]

## TITLE II—RESIDENTIAL ENERGY CONSERVATION

### PART 1—UTILITY PROGRAM

#### SEC. 210. DEFINITIONS.

As used in this title—

(1) The term “Secretary” means the Secretary of Energy.

(2) The term “load management technique” means any technique to reduce the maximum kilowatt demand on an electric utility, including ripple or radio control mechanisms, or other types of interruptible electric service, energy storage devices, and load limiting devices.

(3) The term “natural gas” means natural gas as defined in the Natural Gas Act.

(4) The term “public utility” means any person, State agency, or Federal agency which is engaged in the business of selling natural gas or electric energy, or both, to residential customers for use in a residential building.

(5) The term “regulated utility” means a public utility with respect to whose rates a State regulatory authority has rate-making authority.

(6) The term “nonregulated utility” means a public utility which is not a regulated utility.

(7) The term “rate” means any price, rate, charge, or classification made, demanded, observed, or received with respect to sales of electric energy or natural gas, any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sale of electric energy or natural gas.

(8) The term “ratemaking authority” means authority to fix, modify, approve, or disapprove rates.

(9) The term “residential building” means any building used for residential occupancy which is not a new building to which final standards under section 304(a) of the Energy Conservation and Production Act apply and which has a system for heating or cooling, or both.

(10) The term “residential customer” means any person to whom—

(A) a public utility sells natural gas or electric energy,  
or

(B) a home heating supplier supplies or sells home heating fuel (including No. 2 heating oil, kerosene, butane, and propane),

for consumption by such customer in a residential building.

(11) The term “residential energy conservation measure” means—

- (A) caulking and weatherstripping of doors and windows;
  - (B) furnace efficiency modifications including—
    - (i) replacement burners, furnaces or boilers or any combination thereof which, as determined by the Secretary, substantially increases the energy efficiency of the heating system,
    - (ii) devices for modifying flue openings which will increase the energy efficiency of the heating system, and
    - (iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;
  - (C) clock thermostats;
  - (D) ceiling, attic, wall, and floor insulation;
  - (E) water heater insulation;
  - (F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective glazed window and door materials;
  - (G) devices associated with load management techniques;
  - (H) devices to utilize solar energy or windpower for any residential energy conservation purpose, including heating of water, space heating or cooling; and
  - (I) such other measures as the Secretary by rule identifies for purposes of this part.
- (12) The term “residential energy conservation plan” means a plan approved by the Secretary pursuant to section 212.
- (13) The term “State” means a State, the District of Columbia, and Puerto Rico.
- (14) The term “State regulatory authority” means any State agency which has ratemaking authority with respect to the sale of electric energy or natural gas by any public utility (other than by such State agency); except that in the case of a public utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.
- (15) The term “State agency” means a State, a political subdivision thereof, or any agency or instrumentality of either.
- (16) The term “suggested measures” means, with respect to a particular residential building, the residential energy conservation measures which the Secretary, in the rules prescribed pursuant to section 212, determines to be appropriate for the location and the category of residential buildings which includes such building. In determining which of the residential energy conservation measures shall be suggested measures for a location and category of residential building, the Secretary shall consider the cost of the inspection offered under section 215(b) and its effect on the willingness of residential customers to participate in the utility program.
- (17) The term “utility program” means a program meeting the requirements of section 215.
- (18) The term “Governor” means the Governor or chief executive officer of a State or his designee.

(19) The term “home heating supplier program” means a program meeting the requirements of section 217.

(20) The term “home heating supplier” means a person who sells or supplies home heating fuel (including No. 2 heating oil, kerosene, butane, and propane) to a residential customer for consumption in a residential building.

[42 U.S.C. 8211]

#### SEC. 211. COVERAGE.

(a) IN GENERAL.—This part shall apply in any calendar year to a public utility only if during the second preceding calendar year either—

(1) sales of natural gas by such public utility for purposes other than resale exceeded 10 billion cubic feet, or

(2) sales of electric energy by such public utility for purposes other than resale exceeded 750 million kilowatt-hours.

(b) LIST OF COVERED UTILITIES.—Before the beginning of each calendar year, the Secretary shall publish a list identifying each public utility to which this part applies during such calendar year. Promptly after publication of such list, each State regulatory authority shall notify the Secretary of each public utility on the list for which such State regulatory authority has ratemaking authority.

[42 U.S.C. 8212]

#### SEC. 212. RULES OF SECRETARY FOR SUBMISSION AND APPROVAL OF PLANS.

(a) PROMULGATION OF RULES BY SECRETARY.—The Secretary shall, not later than 45 days after enactment of this Act, publish an advanced notice of proposed rulemaking with respect to rules on the content and implementation of residential energy conservation plans which meet the requirements of sections 213 and 214. Not later than 60 days after the date of publication of the advanced notice of proposed rulemaking, and after consultation with the Secretary of Housing and Urban Development, the Secretary of Commerce (acting through the National Bureau of Standards), the Federal Trade Commission, the Consumer Product Safety Commission, and the heads of such other agencies as he deems appropriate, the Secretary shall publish a proposed rule on content and implementation of such plans. After publication of such proposed rule, the Secretary shall afford interested persons (including Federal and State agencies) an opportunity to present oral and written comments on matters relating to such proposed rule. A rule prescribing the content and implementation of residential energy conservation plans shall be published not earlier than 45 days after publication of the proposed rule.

(b) CONTENT OF SECRETARY’S RULES.—The rules promulgated under subsection (a)—

(1) shall identify the suggested measures for residential buildings, by climatic region and by categories determined by the Secretary on the basis of type of construction and any other factors which the Secretary may deem appropriate;

(2) shall include—

(A) standards which the Secretary determines necessary for general safety and effectiveness of any residential energy conservation measure;

(B) standards which the Secretary determines necessary for installation of any residential energy conservation measure;

(C) standards for the procedures concerning fair and reasonable prices and rates of interest required under section 213(a)(2); and

(D) standards, developed in consultation with the Federal Trade Commission, concerning unfair, deceptive, or anticompetitive acts or practices, for the measures required under section 213(b);

(3) shall include provisions requiring that—

(A) the manufacturer of any residential energy conservation measure offered under a utility program shall, in connection with such measure, warrant in writing that the residential customer for whom the measure is installed, the installation contractor who installs the measure, and the supplier of the measure shall (for those measures found within one year from the date of installation to be defective due to materials, manufacture, or design), at a minimum, be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials;

(B) the supplier of any residential energy conservation measure offered under a utility program shall, in connection with such measure, provide, at a minimum, to any person who purchases the measure from such supplier a warranty equivalent to that required under subparagraph (A); and

(C) the contractor for the installation of any residential energy conservation measure offered under a utility program shall, in connection with such measure, warrant in writing that, at a minimum, any defect in materials, manufacture, design or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time; and

(4) may include such other requirements as the Secretary may determine to be necessary to carry out this part.

(c) PROCEDURE FOR SUBMISSION AND APPROVAL OF STATE RESIDENTIAL ENERGY CONSERVATION PLANS.—(1)(A) Not later than 180 days after promulgation of rules under subsection (a), the Governor of each State or any State agency specifically authorized to do so under State law, may submit to the Secretary a proposed residential energy conservation plan which meets the requirements of the rules promulgated under subsection (a). Within such 180-day period, each nonregulated utility shall submit a proposed plan, which meets the requirements of the rules promulgated under subsection (a), to the Secretary unless a plan submitted under the preceding sentence for the State in which the nonregulated utility provides utility service applies to nonregulated utilities as provided in paragraph (2). The Secretary may, upon request of the Governor or



State agency or nonregulated utility, extend, for good cause shown, the time period for submission of a plan.

(B) Each such plan shall be reviewed and approved or disapproved by the Secretary not later than 90 days after submission. If the Secretary disapproves a plan, the Governor or State agency or nonregulated utility may submit a new or amended plan not later than 60 days after the date of such disapproval, or such longer period as the Secretary may, for good cause, allow. The Secretary shall review and approve or disapprove any such new or amended plan not later than 90 days after submission.

(C) After approval of a plan, a Governor or State agency or nonregulated utility may submit an amended plan and such plan shall be approved or disapproved in the same manner as the original plan.

(2) Any plan submitted by a Governor or State agency under paragraph (1) may, in the discretion of the Governor, if he notifies the Secretary within 30 days after promulgation of rules under subsection (a), apply to nonregulated utilities providing utility service in the State in the same manner as to regulated utilities. In any such case references elsewhere in this part to regulated utilities (including references to utilities with respect to which a State regulatory authority exercise ratemaking authority) shall, with respect to such State, be treated as references also to nonregulated utilities and references elsewhere in this part to nonregulated utilities shall not apply. For purposes of this paragraph, the term "non-regulated utility" shall not include any public utility which is a Federal agency.

(3) A plan applicable to home heating suppliers may be submitted by the Governor in his discretion.

(4) In the case of the Tennessee Valley Authority or any public utility with respect to which the Tennessee Valley Authority has ratemaking authority, the authority otherwise vested in a Governor, a State regulatory authority, a State agency, or an agency or instrumentality of a State under this part shall be vested in the Tennessee Valley Authority.

[42 U.S.C. 8213]

**SEC. 213. REQUIREMENTS FOR STATE RESIDENTIAL ENERGY CONSERVATION PLANS FOR REGULATED UTILITIES.**

(a) GENERAL REQUIREMENTS.—No proposed residential energy conservation plan submitted for regulated utilities shall be approved by the Secretary unless such plan—

(1) requires each regulated utility to implement a utility program which meets the requirements of section 215 (except such requirements of section 215 as do not apply by reason of section 216(f)) and contains adequate State enforcement procedures in connection with such implementation;

(2) provides adequate procedures to assure that each regulated utility will charge fair and reasonable prices and rates of interest to its residential customers under such utility program in connection with the purchase and installation of residential energy conservation measures;

(3) provides procedures for resolving complaints against persons who sell or install residential energy conservation measures under such program;

(4) provides procedures for insuring that effective coordination exists among various local, State, and Federal energy conservation programs within and affecting such State, including any energy extension service program administered by the Secretary of Energy;

(5) is adopted after notice and public hearings;

(6) meets such other requirements as may be contained in the rules promulgated under section 212, and

(7) requires any utility undertaking a program involving the supply or installation of any residential energy conservation measure as permitted under section 216(c) or providing financing for the purchase or installation of any such measure to notify the Secretary of Energy when such program becomes effective.

(b) REQUIREMENTS CONCERNING UNFAIR, DECEPTIVE, OR ANTI-COMPETITIVE ACTS OR PRACTICES.—

(1) No proposed residential energy conservation plan submitted for regulated utilities shall be approved by the Secretary unless such plan contains adequate measures for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of utility programs within such State.

(2) The measures under paragraph (1) shall include—

(A) provisions to assure that, in carrying out procedures under section 215(b) (or the corresponding procedures in section 217) the regulated utility will not unfairly discriminate among—

(i) residential customers,

(ii) suppliers and contractors of such measures, or

(iii) lending institutions in the utility's service area which offer loans for the purchase and installation of residential energy conservation measures, and will not unfairly discriminate among measures which are purchased from, or installed by, any person under such program,

(B) provisions to assure that in the case of a furnace which uses as its primary source of energy any fuel or source of energy other than the fuel or source of energy sold by a utility, such utility will not inspect such furnace, or make, install, or inspect any furnace efficiency modification referred to in section 210(11)(B), unless the residential customer requests (in writing) such inspection, installation, or modification;

(C) provisions to assure that, whenever any public utility undertakes to finance its lending program for residential energy conservation measures through financial institutions, the utility shall (to the extent such utility determines feasible, consistent with good business practice, and not disadvantageous to its customers) seek funds for such financing from financial institutions located throughout the area covered by the lending program; and

(D) provisions to assure that, in the case of any residential energy conservation plan which permits or requires any such utility to supply or install any residential energy conservation measure, the procedures under which any such utility undertakes such supply or installation will be consistent with the requirements of section 216(c).

(c) **REDRESS.**—No residential energy conservation plan submitted for regulated utilities shall be approved by the Secretary unless such plan contains provisions to assure that any person who alleges any injury resulting from a violation of any plan provision shall be entitled to redress under such procedures as may be established by the Governor or State agency.

[42 U.S.C. 8214]

**SEC. 214. PLAN REQUIREMENTS FOR NONREGULATED UTILITIES AND HOME HEATING SUPPLIERS.**

(a) **REQUIREMENTS FOR PLANS FOR NONREGULATED UTILITIES.**—No residential energy conservation plan proposed by a nonregulated utility shall be approved by the Secretary unless such plan meets the same requirements as provided under section 213 for regulated utilities and in addition contains procedures pursuant to which such utility will submit a written report to the Secretary not later than one year after approval of such plan, and biennially thereafter, regarding the implementation of a utility program under section 215 and containing such information as may be required by the Secretary in the rules promulgated under section 212. In applying the requirements of section 213 in the case of a plan for nonregulated utilities under this section, any reference to a regulated utility shall be treated as a reference to a nonregulated utility.

(b) **REQUIREMENTS FOR PLANS FOR HOME HEATING SUPPLIERS.**—No residential energy conservation plan proposed for home heating suppliers shall be approved by the Secretary unless such plan meets the same requirements as provided under section 213(a) (other than paragraphs (1) and (6) thereof) and section 213 (b) and (c) and in addition—

(1) meets the requirements of section 217 and contains adequate enforcement procedures with respect to such requirements;

(2) meets such requirements applicable to home heating suppliers as may be contained in the rules promulgated under section 212; and

(3) takes into account the resources of small home heating suppliers.

In applying the requirements of section 213 in the case of a plan for home heating suppliers under this section, any reference to a regulated utility shall be treated as a reference to the home heating supplier and any reference to a utility program shall be treated as a reference to a home heating supplier program.

[42 U.S.C. 8215]

**SEC. 215. UTILITY PROGRAMS.**

(a) **INFORMATION REQUIREMENTS.**—Each utility program shall include procedures designed to inform, no later than January 1,

1980, or the date six months after the approval of the applicable plan under section 212, if later, and each two years thereafter before June 30, 1989 (but not more often than once during the period beginning on the date of the enactment of the Conservation Service Reform Act of 1986 and ending on June 30, 1989) each of its residential customers who owns or occupies a residential building, of—

(1) the suggested measures for the category of buildings which includes such residential building;

(2) the savings in energy costs that are likely to result from installation of the suggested measures in typical residential buildings in such category;

(3) the availability of the arrangements described in subsection (b); and

(4) suggestions of energy conservation techniques, including suggestions developed by the Secretary, such as adjustments in energy use patterns and modifications of household activities which can be employed by the residential customer to save energy and which do not require the installation of energy conservation measures (including the savings in energy costs that are likely to result from the adoption of such suggestions).

(b) **PROJECT MANAGER REQUIREMENTS.**—Each utility program shall include procedures whereby the public utility, no later than January 1, 1980, or the date six months after the approval of the applicable plan under section 212, if later, will, for each residential customer who owns or occupies a residential building, offer to inspect the residential building (either directly or through one or more inspectors under contract) to determine and inform the residential customer of the estimated cost of purchasing and installing the suggested measures and the savings in energy costs that are likely to result from the installation of such measures (a report of which inspection shall be kept on file for not less than 5 years which shall be available to any subsequent owner without charge), except that a utility shall be required to make only one inspection of a residence unless a new owner requests a subsequent inspection.

(c) **REQUIREMENTS CONCERNING ACCOUNTING AND PAYMENT OF COSTS.**—(1) Each utility program shall include—

(A) procedures to assure that all amounts expended or received by the utility which are attributable to the utility program (including any penalties paid by such utility under section 219(d)) are accounted for on the books and records of the utility separately from amounts attributable to all other activities of the utility;

(B) procedures to assure that all amounts expended by a utility for providing information under subsection (a) are to be treated for such purposes as a current expense of providing utility service and charged to all ratepayers of such utility in the same manner as current operating expenses of providing such utility service;

(C) procedures to permit general administrative costs of carrying out a utility program and the amounts expended by a public utility to carry out subsection (b) to be recovered in the manner specified by the State regulatory authority which

has ratemaking authority over such utility (or in the case of a nonregulated utility in the manner specified by such nonregulated utility); except that the amount that may be recovered directly from a residential customer for whom the activities described in subsection (b) are performed shall not exceed a total of \$15 per dwelling unit or the actual cost of such activities, whichever is less; in determining the amount to be recovered directly from customers as provided under this subparagraph, the State regulatory authority (in the case of a regulated utility) or the utility (in the case of a nonregulated utility) shall take into consideration, to the extent practicable, the customers' ability to pay and the likely levels of participation in the utility program which will result from such recovery.

(2)(A) Any portion of the costs of carrying out any activity as a part of a utility program under this section which are charged to the residential customer for whom such activity is performed and included on a billing for utility service submitted by the utility to such residential customer shall be stated separately on such billing from the cost of providing utility service.

(B) For purposes of this subsection, the term "ratepayer" means any person, State agency, or Federal agency who purchases electric energy or natural gas from a utility.

(d) REQUIREMENTS RESPECTING NEW CUSTOMERS.—In the case of any person who becomes a residential customer of a utility carrying out a utility program under this section after January 1, 1980 (or the date six months after approval of the applicable plan, if later), and before June 30, 1989, not later than 60 days after such person becomes a residential customer of such utility, such utility shall inform such person of the items listed in subsection (a), and the offer required under subsection (b).

(e) TERMINATION OF SERVICE.—No utility implementing any program under this section may terminate utility service to any customer by reason of any default of such customer with respect to payments due for energy conservation measures installed pursuant to such program.

(f) EXEMPT ACTIVITIES.—For purposes of this section, the term "utility program" includes activities which are subject to this section by reason of section 216(f)

(g) EXEMPTION OF CERTAIN MULTIFAMILY BUILDINGS.—The provisions of this section shall not apply to any building which has five or more dwelling units and which does not contain individual meters for the dwelling units therein.

[42 U.S.C. 8216]

#### SEC. 216. SUPPLY AND INSTALLATION BY PUBLIC UTILITIES.

(a) PROHIBITION ON SUPPLY AND INSTALLATION BY PUBLIC UTILITIES.—Except as provided in this section, no public utility may supply or install a residential energy conservation measure for any residential customer.

(b) EXEMPTION FROM PROHIBITION ON INSTALLATION.—The prohibition contained in subsection (a) shall not apply to the energy conservation measures referred to in section 210(11)(B) or 210(11)(C), or devices associated with load management techniques for the type of energy sold by the utility.

(c) EXEMPTION FROM PROHIBITION ON SUPPLY AND INSTALLATION.—(1) The prohibition contained in subsection (a) shall not apply to any residential energy conservation measure supplied or installed by a public utility through contracts between such utility and independent suppliers or contractors where the customer requests such supply or installation and each such supplier or contractor—

(A) is not subject to the control of the public utility, except as to the performance of such contract, and is not an affiliate or a subsidiary of such utility; and

(B) if selected by the utility, is selected in a manner consistent with paragraph (2).

(2) As provided under the provisions described in section 213(b)(2)(D), activities of a public utility under paragraph (1)—

(A) may not involve unfair methods of competition or other activities described in subsection (g)(2);

(B) may not have a substantial adverse effect on competition in the area in which such activities are undertaken nor result in providing to any supplier or contractor an unreasonably large share of contracts for the supply or installation of residential energy conservation measures;

(C) shall be undertaken in a manner which provides, subject to reasonable conditions the utility may establish to insure the quality of supply and installation of residential energy conservation measures, that any financing by the utility of such measures shall be available to finance supply or installation by any contractor or to finance the purchase of such measures to be installed by the customer;

(D) to the extent practicable and consistent with subparagraphs (A), (B), and (C), shall be undertaken in a manner which minimizes the cost of residential energy conservation measures to such customers; and

(E) shall include making available upon request a current estimate of the average price of supply and installation of residential energy conservation measures subject to the contracts entered into by the public utility under paragraph (1).

(d) GENERAL EXEMPTIONS.—(1) Except as provided in paragraph (2), the prohibitions contained in subsection (a) shall not apply to—

(A) the supply, installation, or financing of those specific residential energy conservation measures which the Secretary determines were being installed or financed by a public utility on the date of enactment of this Act;

(B) supply, installation, or financing activities which the Secretary determines were broadly advertised or for which substantial preparations were completed on or before the date of enactment of this Act; or

(C) supply, installation, or financing activities by a public utility with respect to energy conservation measures where a law or regulation in effect on or before the date of enactment of this Act either requires, or explicitly permits, the public utility to carry out such activities.

(2) Effective July 1, 1987, subparagraphs (A) and (B) of paragraph (1) shall not apply to the supply or installation of residential

energy conservation measures other than measures which the Secretary determines were being installed or supplied by a public utility during the 12-month period ending June 1, 1985.

(e) **WAIVER.**—The Secretary may, upon petition of a public utility, supported in the case of a regulated utility by a Governor, waive in whole or in part the prohibitions contained in subsection (a) with respect to the utility if such utility demonstrates to the satisfaction of the Secretary that, in carrying out prohibited activities under subsection (a), fair and reasonable prices and rates of interest would be charged and the Secretary finds, after consultation with the Federal Trade Commission, that such activities would not be inconsistent with the prevention of unfair methods of competition and the prevention of unfair or deceptive acts or practices.

(f) **APPLICABILITY OF SECTION 215.**—Any public utility carrying out activities permitted under subsection (b) or (c) or subsection (d)(1)(B) or (e) of this section shall be subject to all the requirements of section 215 with respect to such activities. A public utility which is carrying out activities permitted pursuant to subsection (d)(1)(A) shall, within such reasonable period as may be prescribed by the Secretary, be subject to all such requirements of section 215 with respect to such activities. A public utility carrying out activities permitted pursuant to the exemption contained in subsection (d)(1)(C) shall not be subject to the requirements of section 215 with respect to such activities.

(g) **AUTHORITY TO MONITOR AND TERMINATE CERTAIN ACTIVITIES BY UTILITIES.**—(1) The Secretary, in consultation with the Federal Trade Commission, shall monitor financing, supply, and installation activities of public utilities in connection with residential energy conservation measures and shall report annually to Congress on such activities. Each such report shall contain the comments of the Federal Trade Commission.

(2) No public utility that has an exemption or waiver under this section may carry out under this Part and pursuant to an exemption or waiver any activity if the Federal Trade Commission, pursuant to subsection (h), or a State regulatory authority, pursuant to State law, has determined that such activity involves—

(A) charging unfair or unreasonable prices or rates of interest with respect to the supply and installation of residential energy conservation measures; or

(B) engaging in unfair methods of competition or unfair or deceptive acts or practices with respect to such supply and installation.

(h) **ENFORCEMENT.**—(1) For the purpose of determining whether a public utility which has an exemption or waiver under this section is engaging in any activity described in subsection (g)(2), a person alleging injury from any such activity may request—

(A) to the extent authorized under State law, a State regulatory authority; or

(B) in any case described in paragraph (2), the Federal Trade Commission, to review an activity being carried out by such a public utility in whole or in part in such State. Such request shall contain a description of the actions of the utility alleged to constitute an activity described in subsection (g)(2); an allegation that an injury has

been incurred by the person requesting the review; and an allegation that such injury resulted from an activity described in subsection (g)(2).

(2) The Federal Trade Commission may review an activity of a public utility as a result of a request made under paragraph (1) only if—

(A) a State regulatory authority has—

(i) informed the resident making the request that it will not review such activity for the purpose described in paragraph (1); or

(ii) within the 90-day period beginning on the date on which the request to review such activity was made to the State regulatory authority by the resident, failed to inform the resident that it will review such activity for such purpose; or

(B) a State regulatory authority has informed the resident that it will review such activity for such purpose but has failed to initiate a proceeding for such purpose during the 6-month period beginning on the date on which the request to review such activity was made to the State regulatory authority by the resident.

(3) If a request for review is made to the Commission in any case described in paragraph (2), and the Commission determines, on the basis of the information provided, that there is reason to believe that the public utility is carrying out an activity described in subsection (g)(2), the Commission shall issue and serve upon such utility a complaint and a notice of hearing and conduct a proceeding in accordance with section 5(b) of the Federal Trade Commission Act to determine if such an activity is being carried out by the utility.

(4) If the Commission makes a determination pursuant to a proceeding described in paragraph (3) that a public utility is carrying out an activity described in subsection (g)(2) of this section, the Commission shall, utilizing the authority of the Commission to enforce prohibitions made by section 5 of the Federal Trade Commission Act, take appropriate action to enforce the prohibition in subsection (g)(2) of this section.

(5) Any violation of a prohibition contained in this section other than a violation of subsection (g)(2) shall be treated, for purposes of section 219(d), as a violation of a plan promulgated under section 219(a).

(i) **TAX TREATMENT.**—The value of any subsidy provided by a utility to any residential customer for the purchase and installation of residential energy conservation measures shall not be included in the gross income of such customer for purposes of the Internal Revenue Code of 1954, and such customer shall not receive any increase in basis under the Internal Revenue Code of 1954 which is attributable to any such subsidy.

[42 U.S.C. 8217]

#### **SEC. 217. HOME HEATING SUPPLIER PROGRAMS.**

(a) **REQUIREMENTS.**—Each home heating supplier program shall include—



(1) procedures designed to inform, no later than January 1, 1980, or the date six months after the approval of the applicable plan under section 212, if later, and each two years thereafter before June 30, 1989 (but not more often than once during the period beginning on the date of the enactment of the Conservation Service Reform Act of 1986 and ending on June 30, 1989), each residential customer of each participating home heating supplier who owns or occupies a residential building of—

(A) the suggested measures for the category of buildings which includes such residential building;

(B) the savings in energy costs that are likely to result from installation of the suggested measures in typical residential buildings in such category; and

(C) the availability of the arrangements described in paragraph (2) of this subsection; and

(2) procedures whereby a participating home heating supplier, no later than January 1, 1980 (or the later date referred to in paragraph (1)) will offer each such residential customer the opportunity to enter into arrangements with the home heating supplier under which such supplier, directly or through one or more inspectors under contract, will inspect the residential building to determine and inform the residential customer of the estimated cost of purchasing and installing, and the savings in energy costs that are likely to result from installing, suggested measures.

(b) NOTICE; WAIVER.—A home heating supplier who wishes to participate in the program established pursuant to this section may so notify the Governor. The Governor may waive, for any home heating supplier, any requirement of this section, upon demonstration to his satisfaction that the resources of such supplier do not enable him to comply with such requirement.

[42 U.S.C. 8218]

#### SEC. 218. TEMPORARY PROGRAMS.

(a) EXEMPTION FROM CERTAIN REQUIREMENTS.—A Governor of any State, on behalf of one or more utilities, or any public utility (supported by the Governor in the case of a regulated utility) may, no later than 180 days after the promulgation of rules pursuant to section 212, apply for a temporary exemption for one or more utilities from one or more of the requirements of section 215 and the prohibitions contained in section 216(a). Such temporary exemption may be granted or renewed until such date as determined by the Secretary.

(b) TIME LIMIT.—An application for an exemption under subsection (a) shall be approved or disapproved by the Secretary within 90 days of receipt of such application or such longer period as the Secretary may require in the case of any particular application.

(c) INFORMATION.—An application for an exemption under subsection (a) to establish a temporary program shall contain such information and meet such requirements as the Secretary shall prescribe by rule.

(d) REQUIREMENTS.—In order for an application for an exemption under subsection (a) to be granted, the Governor or the public

utility shall demonstrate to the satisfaction of the Secretary that the temporary program will:

(1) contain adequate procedures to assure that each public utility, in connection with such program, will charge fair and reasonable prices and rates of interest to its residential customers in connection with the purchase and installation of residential energy conservation measures;

(2) contain adequate procedures for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of such program; and

(3) be likely to result in the installation of suggested measures in at least as many residential buildings as would have been installed had such utility submitted a program which met the requirements of section 215 and did not violate the prohibitions contained in section 216(a).

(e) **FEDERAL STANDBY AUTHORITY.**—The Secretary shall not exercise the Federal standby authority, pursuant to section 219 (a) or (b) with respect to any public utility which is covered by a temporary exemption approved by the Secretary pursuant to this section. Upon termination of such temporary exemption, the Secretary shall exercise such authority unless, within such period as he deems reasonable after such termination, the State (or nonregulated utility as the case may be) has a plan applicable to such utility approved under section 212 and such plan is being adequately implemented (as determined by the Secretary).

[42 U.S.C. 8219]

#### **SEC. 219. FEDERAL STANDBY AUTHORITY.**

(a) **STANDBY AUTHORITY FOR STATE REGULATED UTILITIES.**—If a State does not have a plan approved under section 212(c) within 270 days after promulgation of rules under section 212(a), or within such additional period as the Secretary may allow pursuant to section 212(c)(1), or if the Secretary determines, after notice and opportunity for a public hearing that an approved plan is not being adequately implemented in such State, the Secretary shall—

(1) promulgate a plan which meets the requirements of section 213, and

(2) under such plan, by order, require each regulated utility in the State to offer, no later than 90 days following the date of issuance of such order, to its residential customers a utility program prescribed in such order which meets the requirements specified in section 215 (except with respect to a utility for which such requirements are inapplicable by reason of section 216(f)).

For purposes of applying section 213(c) in the case of a plan promulgated by the Secretary under this section, the references to the Governor or State agency shall be treated as references to the Secretary.

(b) **NONREGULATED UTILITIES.**—If a nonregulated utility which is not covered by an approved State plan under section 212 does not have a plan approved under section 212(c) within 270 days after promulgation of rules under section 212(a) or within such additional period as the Secretary may allow pursuant to section 212(c)(1), or if the Secretary determines that such nonregulated

utility has not adequately implemented an approved plan, the Secretary shall, by order, require such nonregulated utility to—

(1) promulgate a plan which meets the requirements of section 214 and which applies to the residential buildings which would have been covered had such a plan been so approved or implemented, and

(2) under such plan, by order, require the nonregulated utility to offer, not later than 90 days following the date of issuance of such order, to its residential customers a utility program prescribed in such order which meets the requirements specified in section 215 (except in the case of a nonregulated utility for which such requirements are inapplicable by reason of section 216(f)).

(c) FAILURE TO COMPLY WITH ORDERS.—If the Secretary determines that any public utility to which an order has been issued pursuant to subsection (a) or (b) has failed to comply with such order, he may file a petition in the appropriate United States district court to enjoin such utility from violating such order.

(d) CIVIL PENALTY.—(1) Any public utility which violates any requirement of a plan promulgated under subsection (a) or (b) or which fails to comply with an order under subsection (a) or (b) within 90 days from the issuance of such order shall be subject to a civil penalty of not more than \$25,000 for each violation. Each day that such violation continues shall be considered a separate violation.

(2)(A) Notwithstanding section 402(d) of the Department of Energy Organization Act, a civil penalty under this subsection shall be assessed by an order of the Secretary.

(B) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect in writing within 30 days after receipt of such notice to have the procedures of paragraph (4) (in lieu of those of paragraph (3)) apply with respect to such assessment.

(3)(A) Unless an election in writing is made within 30 calendar days after receipt of notice under paragraph (2) to have paragraph (4) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

(B) Any person against whom such penalty is assessed under this paragraph may, within 60 calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

(4)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall assess such penalty, by order, not later than 60 calendar days after the date of receipt of notice under paragraph (2) of the proposed penalty.

(B) If the civil penalty has not been paid within 60 calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

(C) Any election to have this paragraph apply may not be revoked except with the consent of the Secretary.

(5) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (3), or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (4), the Secretary shall recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final order or judgment imposing the civil penalty shall not be subject to review.

(6)(A) Notwithstanding the provisions of title 28, United States Code, or of section 502 of the Department of Energy Organization Act, the Secretary shall be represented by the general counsel of the Department of Energy (or any attorney or attorneys within the Department of Energy designated by the Secretary) who shall supervise, conduct, and argue any civil litigation to which this subsection applies (including any related collection action) in a court of the United States or in any other court, except the Supreme Court. However, the Secretary or the general counsel shall consult with the Attorney General concerning such litigation and the Attorney General shall provide, on request, such assistance in the conduct of such litigation as may be appropriate.

(B) Subject to the provisions of section 502(c) of the Department of Energy Organization Act, the Secretary shall be represented by the Attorney General, or the Solicitor General, as appropriate, in actions under this subsection, except to the extent provided in subparagraph (A) of this paragraph.

(e) **PLANS APPROVED BEFORE 1986 AMENDMENTS.**—For purposes of this section, any residential energy conservation plan which was approved by the Secretary before the effective date of the Conservation Service Reform Act of 1986 shall be treated as an approved plan which is adequately implemented if such plan is adequately implemented in accordance with the requirements of this Act as amended by the Conservation Service Reform Act of 1986.

[42 U.S.C. 8220]

#### **SEC. 220. RELATIONSHIP TO OTHER LAWS.**

(a) **STATE AND LOCAL LAW IN GENERAL.**—Nothing in this Part shall supersede any law or regulation of any State or political subdivision thereof, except to the extent that the Secretary, upon peti-

tion of a public utility and for good cause, determines that such law or regulation prohibits a public utility from taking any action required to be taken under this Part or that such law or regulation requires or permits any public utility to take any action prohibited under this Part.

(b) **LAWS RELATING TO UNFAIR COMPETITION AND DECEPTIVE ACTS.**—Nothing in this Part shall be construed as restricting the authority of any agency or instrumentality of the United States or of any State under any provision of law to prevent unfair methods of competition and unfair or deceptive acts or practices.

(c) **TRUTH IN LENDING.**—Nothing contained in section 104(4) of the Truth in Lending Act (15 U.S.C. 1603(4)) or the regulations issued pursuant thereto shall be deemed to exempt sales or credit extensions by public utilities under this Part.

(d) **WARRANTIES.**—With respect to section 212(b)(3) concerning warranties, all Federal and State laws otherwise applicable to such warranties shall apply, except to the extent inconsistent with such section.

(e) **PUBLIC UTILITY HOLDING COMPANY ACT.**—For purposes of section 11(b)(1) of the Public Utility Holding Company Act of 1935, any financing, supply, or installation of residential energy conservation measures under this part by a public utility company or utility holding company system subject to such Act shall be construed as an activity or business which is reasonably incidental or economically necessary or appropriate to the operations of the public utility company or utility holding company system.

[42 U.S.C. 8221]

#### **SEC. 221. RULES.**

The Secretary is authorized to promulgate such rules as he determines may be necessary to carry out this Part.

[42 U.S.C. 8222]

#### **SEC. 222. PRODUCT STANDARDS.**

The Secretary shall consult with the Secretary of Commerce, acting through the National Bureau of Standards, with regard to any product or material standard which is relied on in implementing this Part as a basis for judging the efficacy, energy efficiency, safety, or other attributes of energy conservation materials, products, or devices, and with the Federal Trade Commission for the purpose of insuring that such standards do not operate to deceive consumers or unreasonably restrict consumer or producer options, and that such standards (when applicable) are suitable as a basis for making truthful and reliable disclosures to consumers regarding performance and safety attributes of energy conservation products, materials, and devices.

[42 U.S.C. 8223]

#### **SEC. 223. AUTHORIZATION OF APPROPRIATIONS.**

There are hereby authorized to be appropriated \$5,000,000 to the Secretary for each of the first three fiscal years 1979, 1980, and 1981, to carry out his responsibilities under this Part.

[42 U.S.C. 8224]

**SEC. 224. REPORT ON ENERGY CONSERVATION IN APARTMENT BUILDINGS.**

(a) **REPORT.**—The Secretary shall, within six months after the date of enactment of this Act, prepare a report on the potential for energy conservation in apartment buildings.

(b) **CONSIDERATION REQUIRED.**—The report required under this section shall include a consideration of:

- (1) structural and energy control measures which may result in energy conservation in apartment buildings;
- (2) potential for energy conservation in apartment buildings which could be achieved by the application of a utility program (such as provided in this part) to apartment buildings;
- (3) the costs of achieving energy conservation in apartment buildings, and the need for Federal financial assistance to achieve energy savings; and
- (4) recommendations for appropriate legislation.

(c) **DEFINITION.**—For purposes of this section, the term “apartment building” means a building used for residential occupancy which is not a new building to which final standards under section 304(a) of the Energy Conservation and Production Act apply and which contains more than four dwelling units.

【42 U.S.C. 8225】

**SEC. 225. REPORTS AND DISSEMINATION OF INFORMATION.**

(a) **GENERAL REPORT.**—(1) No later than December 31, 1987, and December 31, 1989, the Secretary shall submit a report to the Chairman of the Committee on Energy and Commerce of the House of Representatives and the Chairman of the Committee on Energy and Natural Resources of the Senate relating to the operation of this part.

(2) Each such report shall include—

(A) a comparison of estimated actual and predicted energy savings resulting from plans under this part,

(B) identification of the most effective plans (or portions thereof),

(C) an analysis, based on completed audits and other relevant data, of the energy saving potential of the installation of additional residential conservation measures, and

(D) an analysis of economic, technical, behavioral, and other factors considered relevant to energy consumption by the Secretary.

Nothing in this paragraph shall require a survey of each residential building in which a residential energy conservation measure has been installed under this part.

(b) **SUMMARY OF ALTERNATIVE PLAN AND UTILITY WAIVER REPORTS.**—No later than December 31, 1987, and December 31, 1989, the Secretary shall submit a report to the Chairman of the Committee on Energy and Commerce of the House of Representatives and the Chairman of the Committee on Energy and Natural Resources of the Senate summarizing the annual reports the Secretary received under section 226(e).

(c) **DISSEMINATION OF INFORMATION.**—(1)(A) The Secretary shall at least annually, in fiscal years beginning after September 30, 1986, disseminate to the States and public utilities information

providing technical assistance and relating to the most cost-effective energy conservation procedures and devices (including residential energy conservation measures) and the most successful plans (or portions thereof) under this part.

(B) The Secretary shall make the information described in subparagraph (A) available to the public.

(2) The Secretary shall conduct seminars in various regions of the United States to disseminate information described in paragraph (1).

[42 U.S.C. 8226]

#### SEC. 226. ALTERNATIVE STATE PLANS.

(a) IN GENERAL.—A Governor of any State, any State regulatory authority, or any agency or instrumentality of a State may elect, to the extent authorized under State law, to formulate and certify an alternative State plan for residential buildings under this section.

(b) CONSEQUENCES OF CERTIFICATION.—(1) Beginning with the date on which the certification of a plan is made with respect to a State under subsection (d) and ending with the date on which a plan is no longer in effect under this section with respect to such State—

(A) subsections (a) through (c)(3) of section 212, sections 213 through 215 and sections 217 and 218 shall not apply with respect to—

(i) regulated utilities in such State, and

(ii) nonregulated utilities which are included in the plan;

(B) section 219 shall apply to utilities described in subparagraph (A) only to the extent provided for in subsection (f); and

(C) sections 212 through 219 shall apply to nonregulated utilities which are not included in the plan or which have not received an exemption under section 227.

(2) Except as provided in subsection (f), any State for which a plan is certified under subsection (d) shall continue to have such plan in effect until June 30, 1989.

(c) CONTENT OF PLAN.—A plan certified pursuant to this section shall—

(1) be designed to result in annual residential energy conservation savings of 2 percent or more;

(2) contain the goals established for the plan and an analysis of the data and rationale used by the entity in charge of formulating the plan to determine that the plan is likely to achieve such goals;

(3) contain adequate procedures to assure that, if a public utility supplies or installs residential energy conservation measures, such actions shall be consistent with section 216 and prices and rates of interest charged shall be fair and reasonable; and

(4) contain adequate procedures for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of such plan.

(d) CERTIFICATION.—(1) The entity which elects to certify a plan under this section shall certify, pursuant to a form to be prescribed by the Secretary (except as provided by paragraph (2)), to the Secretary that—

- (A) the plan meets the requirements of subsection (c);
- (B) the plan is likely to achieve the goals established for the plan if it is adequately implemented; and
- (C) the plan will be adequately implemented.

(2) If a form is not made available by the Secretary within 90 days after the date of the enactment of this section, the entity in charge of certifying the plan may make such certification on a form prescribed by such entity.

(3) Any certification under this subsection shall include a detailed explanation of the manner in which the contents of the plan will be implemented.

(e) ANNUAL REPORT.—(1) The entity which certifies a plan under subsection (d) shall submit an annual report to the Secretary, within 60 days after the end of the 1-year period to which the report relates, describing the implementation of the plan and the results thereof.

(2) Such report shall include—

- (A) a statement of the number of residential buildings receiving benefits under the plan,
- (B) an estimate of the actual energy savings resulting from the plan and a description of the sources of such savings,
- (C) a statement of the percentage of individuals with low and moderate incomes who receive benefits under the plan,
- (D) a detailed description of the benefits provided under the plan and of how the plan is implemented, and
- (E) the names of the entities carrying out the plan.

(3) The first such report shall be made by an entity within the 14-month period that begins with the date that such entity certified a plan under this section.

(f) ADMINISTRATION AND JUDICIAL ENFORCEMENT PROCEEDINGS.—(1)(A) At any time more than 1 year after an alternative State plan has been certified under subsection (d) with respect to a State, any customer of a utility subject to such alternative State plan may petition the Secretary of Energy to conduct a public hearing to determine if the alternative State plan has been adequately implemented. A copy of such petition shall be transmitted to the entity in charge of the plan on the same date it is transmitted to the Secretary.

(B) Within 60 days after the date on which a petition is received under subparagraph (A), the Secretary shall—

- (i) conduct the hearing requested in such petition; or
- (ii) notify in writing the customer submitting such petition of the Secretary's reasons for determining that such a hearing is not justified in the public interest.

(C) The Secretary shall provide advance notice to the public of any hearing carried out as a result of a petition submitted under subparagraph (A). Any determination by the Secretary concerning the adequacy of the implementation of any alternative State plan shall be on the record and shall be published in the Federal Register within 60 days after such determination is made.



(D) Any person alleging that he is likely to be injured as a result of a determination by the Secretary under this paragraph may, within 60 days after publication or notification of such determination, institute an action appealing the determination in the United States Court of Appeals for the appropriate judicial circuit. The Court shall review the determination of the Secretary in accordance with the Administrative Procedures Act, and shall have jurisdiction to affirm, modify, set aside, in whole or in part, or to remand such determination to the Secretary for such other action as the Court may direct.

(2) Except as provided in paragraph (3), if any determination by the Secretary that the alternative State plan has not been adequately implemented becomes final and may not be appealed, the Secretary shall, within 30 days of the date on which the determination may no longer be appealed, initiate standby authority under section 219 with respect to such State.

(3) If a State which had an approved plan in effect under section 212 on the day before the date on which certification was made under this section informs the Secretary in writing, within 30 days after receiving a copy of the petition described in paragraph (1), that it will no longer implement a plan certified under this section and that it will implement the approved plan which was in effect in the State on the day before certification of the alternative plan under this section, then—

(A) the determinations and actions described in paragraph

(1) may not be carried out; and

(B) sections 212 through 219 shall apply in such State except to the extent that waivers are provided for utilities under section 227 in such State.

(g) COVERAGE.—A plan certified under this section shall not apply to utilities other than utilities covered under section 211(a).

(h) INCLUSION OF NONREGULATED UTILITIES.—A nonregulated utility may not be included in a plan under this section unless such inclusion is authorized under State law or the nonregulated utility agrees to such inclusion.

(i) INCENTIVES.—The entity in charge of a plan under this section, or a State regulatory authority, may, to the extent permitted under State law, provide incentives for utilities to meet the goals contained in the State's alternative plan, including providing such utilities that meet or exceed such goals with a rate of return on expenditures made for the purpose of accomplishing such goals.

(j) UTILITIES WITH RETAIL SERVICE TERRITORIES IN MORE THAN 1 STATE.—For purposes of this section, any utility with a retail service territory in more than one State shall be considered to be a separate utility with respect to each State in which its retail service territory is located.

(k) AMENDMENT OF A PLAN.—(1) Except as provided by paragraph (2), a plan certified under this section may be amended by any amendment—

(A) consistent with the requirements of subsection (c); and

(B) certified to the Secretary of Energy in a manner consistent with the requirements applicable to the certification of a plan under subsection (d).

(2) A plan certified under this section may not be amended—

- (A) during the first year after it is certified; or
- (B) more than once a year thereafter.

【42 U.S.C. 8227】

**SEC. 227. WAIVER FOR REGULATED AND NONREGULATED UTILITIES.**

(a) **WAIVER.**—Any utility subject to this part may, upon request, receive a waiver from the Secretary from any provision of this part or from any provision of a State residential energy conservation plan under this part if the utility shows in appropriate State proceedings and the appropriate State officials find that—

(1) the existing and planned residential energy conservation programs that will be implemented by the utility if a waiver from such provision is approved will result in savings in petroleum, natural gas or electric energy consumed in residential buildings served by the utility that are equal to or greater than the savings that would be achieved in connection with a properly implemented State residential conservation service plan under this part; and

(2) adequate procedures are in effect that prevent unfair, deceptive or anticompetitive acts or practices affecting commerce that relate to the implementation of such residential energy conservation programs, including provisions to assure that any person who alleges any injury resulting from unfair, deceptive or anticompetitive acts or practices in connection with such programs shall be entitled to redress under such procedures as may be established by the Governor in the State in which the utility provides utility service.

(b) **DEFINITION.**—For purposes of this section the term “residential energy conservation program” means any program carried out by a utility that has as its purpose—

(1) increasing the efficiency with which petroleum, natural gas or electric energy is consumed in residential buildings served by such utility; or

(2) utilizing solar or other forms of renewable energy in residential buildings served by such utility.

(c) **APPROVAL.**—The Secretary shall approve a request of a utility for a waiver under subsection (a) if the Secretary determines that—

(1) opportunity for a hearing on the request for a waiver has been provided in the State in which the utility provides utility service; and

(2) in the case of a regulated utility, the Governor of the State in which the utility provides utility service and the State regulatory authority that has ratemaking authority with respect to such utility both—

- (A) find that the showings under subsections (a) (1) and (2) are sufficient; and
- (B) support the request by the utility for the waiver;

or

(3) in the case of a nonregulated utility subject to a State residential energy conservation plan under section 212(c)(2), the Governor of the State in which the utility provides utility service—

(A) finds that the showings under subsections (a) (1) and (2) are sufficient; and

(B) supports the request by the utility for the waiver.

(d) ANNUAL REVIEW AND REVOCATION OF WAIVER.—(1) The provisions of this subsection do not apply to a nonregulated utility unless such utility is subject to a State residential energy conservation plan under section 212(c)(2).

(2) Any utility that receives a waiver under this section shall provide the Governor of the State in which that utility provides utility service with an annual report describing the performance of its residential energy conservation programs in relation to the showings of such utility under subsections (a) (1) and (2).

(3) The Secretary shall revoke any waiver received by a utility under this section upon a request under this subsection by the Governor of the State in which the utility provides utility service. Such a request shall be made upon a finding—

(A) in the case of a regulated utility, by such Governor with the concurrence of the State regulatory authority that has ratemaking authority with respect to such utility; or

(B) in the case of a nonregulated utility subject to a State residential energy conservation plan under section 212(c)(2), by such Governor,

that the savings described in subsection (a)(1) on an annual basis are less than the savings in the year prior to the approval of the waiver or that the procedures referred to in subsection (a)(2) are no longer adequate.

(4) A request under paragraph (3) with respect to any utility may be submitted to the Secretary by a Governor only after review and opportunity for a hearing on the performance of the residential energy conservation programs of such utility. In order to facilitate such review and hearing, the utility shall provide to the Governor such information as the Governor requests about such residential energy conservation programs.

[42 U.S.C. 8228]

#### **SEC. 228. TERMINATION.**

Effective June 30, 1989, all authority, including the authority to enforce any prohibitions, under this part shall terminate, except that such expiration shall not affect any action or proceeding based upon an act committed prior to midnight June 30, 1989, and not finally determined by such date.

[42 U.S.C. 8229]

### **PART 2—WEATHERIZATION GRANTS FOR THE BENEFIT OF LOW-INCOME FAMILIES**

#### **SEC. 231. DEPARTMENT OF ENERGY WEATHERIZATION GRANT PROGRAM.**

(a) [Amends the Energy Conservation in Existing Buildings Act of 1976.]

#### **SEC. 232. FARMERS HOME ADMINISTRATION WEATHERIZATION GRANT PROGRAM.**

[Amends the Housing Act of 1949.]

**SEC. 233. 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 title I of the Workforce Investment Act of 1998 and the Older American Community Service Employment Act, available to work in support of weatherization programs conducted under part A of the Energy Conservation in Existing Buildings Act of 1976, section 222(a)(12) of the Economic Opportunity Act of 1964, and section 504 of the Housing Act of 1949:

(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.

[42 U.S.C. 6873]

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【Note: Section 512(v) of Public Law 113–128 provides for an amendment to the matter preceding paragraph (1) of section 233. Section 506(a) of such Public Law provides as follows: “[e]xcept as otherwise provided in this Act, this Act, including the amendments made by this Act, shall take effect on the first day of the first full program year after the date of enactment of this Act [enactment date is July 22, 2014]”. The effective date for the execution of such amendment is July 1, 2015. Upon such date, section 233 (as amended) reads as follows:】

**SEC. 233. 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 title I of the Workforce Innovation and Opportunity Act and the Community Service Senior Opportunities Act, available to work in support of weatherization programs conducted under part A of the Energy Conservation in Existing Buildings Act of 1976, section 222(a)(12) of the Economic Opportunity Act of 1964, and section 504 of the Housing Act of 1949:*

*(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.

【42 U.S.C. 6873】

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### **PART 3—SECONDARY FINANCING AND LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS AND SOLAR ENERGY SYSTEMS**

#### **SEC. 241. LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS AND SOLAR ENERGY SYSTEMS UNDER TITLE I OF THE NATIONAL HOUSING ACT.**

【Amends section 2(a) of the National Housing Act.】

#### **SEC. 242. PURCHASE BY GOVERNMENT NATIONAL MORTGAGE ASSOCIATION OF LOANS TO LOW- AND MODERATE-INCOME FAMILIES FOR ENERGY CONSERVING IMPROVEMENTS.**

【Amends the Federal National Mortgage Association Charter Act.】

#### **SEC. 243. STANDBY AUTHORITY OF GOVERNMENT NATIONAL MORTGAGE ASSOCIATION TO PURCHASE LOANS FOR ENERGY CONSERVING IMPROVEMENTS.**

【Amends the Federal National Mortgage Association Charter Act.】

#### **SEC. 244. PURCHASE BY GOVERNMENT NATIONAL MORTGAGE ASSOCIATION OF LOANS FOR SOLAR ENERGY SYSTEMS.**

【Amends the Federal National Mortgage Association Charter Act.】

#### **SEC. 245. SECONDARY FINANCING BY FEDERAL HOME LOAN MORTGAGE CORPORATION OF SOLAR ENERGY AND ENERGY CONSERVING IMPROVEMENT LOANS.**

【Amends section 302(h) of the Federal Home Loan Mortgage Corporation Act.】

#### **SEC. 246. SECONDARY FINANCING BY FEDERAL NATIONAL MORTGAGE ASSOCIATION OF SOLAR ENERGY AND ENERGY CONSERVING IMPROVEMENT LOANS.**

【Amends section 302(b) of the Federal National Mortgage Association Charter Act.】

#### **SEC. 247. LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS AND SOLAR ENERGY SYSTEMS IN MULTIFAMILY PROJECTS UNDER SECTION 241 OF THE NATIONAL HOUSING ACT.**

【Amends section 241 of the National Housing Act.】

**SEC. 248. INCREASE IN MORTGAGE LIMITS TO COVER COSTS OF SOLAR ENERGY SYSTEMS.**

【Amends the National Housing Act.】

**PART 4—MISCELLANEOUS****SEC. 251. ENERGY-CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING.**

(a) 【Amends the United States Housing Act of 1937.】

(b) GRANTS.—(1) 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 2(a) of the National Housing Act) to projects which are financed with loans under section 202 of the Housing Act of 1959, or which are subject to mortgages insured under section 221(d)(3) or section 236 of the National Housing Act. The Secretary shall make assistance available under this subsection 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 subsection, the Secretary shall issue regulations requiring that any grant made under this subsection 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 operating subsidy if such a subsidy is being paid to such recipient.

(2) The Secretary shall establish minimum standards for energy conserving improvements to multifamily dwelling units to be assisted under this subsection.

(3) There are authorized to be appropriated to carry out the provisions of this subsection not to exceed \$25,000,000.

【42 U.S.C. 8231】

**SEC. 252. ENERGY CONSERVING STANDARDS FOR NEWLY CONSTRUCTED RESIDENTIAL HOUSING INSURED BY FEDERAL HOUSING ADMINISTRATION OR ASSISTED BY FARMERS HOME ADMINISTRATION.**

【This section amended the National Housing Act and the Housing Act of 1949.】

**SEC. 253. RESIDENTIAL ENERGY EFFICIENCY STANDARDS STUDY.**

(a) GENERAL AUTHORITY.—The Secretary of Housing and Urban Development (hereinafter in this section referred to as the “Secretary”) shall, in coordination with the Secretary of Agriculture, the Secretary of the Treasury, the Secretary of Veterans Affairs, the Secretary of Energy, and such other representatives of Federal, State, and local governments as the Secretary shall designate, conduct a study, utilizing the services of the National Institute of Building Sciences pursuant to appropriate contractual arrangements, for the purpose of determining the need for, the feasibility of, and the problems of requiring, by mandatory Federal action, that all residential dwelling units meet applicable energy efficient standards. The subjects to be examined shall include, but not be limited to, mandatory notification to purchasers, and policies to

prohibit exchange or sale, of properties which do not conform to such standards.

(b) **SPECIFIC FACTORS.**—In conducting such study, the Secretary shall consider at least the following factors—

(1) the extent to which such requirement would protect a prospective purchaser from the uncertainty of not knowing the energy efficiency of the property he proposes to purchase;

(2) the extent to which such requirement would contribute to the Nation's energy conservation goals;

(3) the extent to which such a requirement would affect the real estate, home building, and mortgage banking industries;

(4) the sanctions which might be necessary to make such a requirement effective and the administrative impediments there might be to enforcement of such sanctions;

(5) 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 and the Federal Disaster Protection Act of 1973;

(6) 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;

(7) the effect of such a requirement on availability of credit in the housing industry;

(8) the extent to which the imposition of mandatory Federal requirements would temporarily reduce the number of residential dwellings available for sale and the resulting effect of such mandatory actions on the price of those remaining dwelling units eligible for sale; and

(9) 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) 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) 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 the date of enactment of this section, 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.

[42 U.S.C. 8232]

**SEC. 254. 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 the date of enactment of this Act, 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.

[42 U.S.C. 8233]

**SEC. 255. AUTHORIZATION FOR APPROPRIATIONS FOR NEW BUILDING PERFORMANCE STANDARDS GRANTS.**

Section 307(b) of the Energy Conservation Standards for New Buildings Act of 1976 is amended to read as follows:

“(b) There is authorized to be appropriated, for the purpose of carrying out this section, the following amounts—

“(1) for the fiscal year ending September 30, 1977, not to exceed \$5,000,000;

“(2) for the fiscal year ending September 30, 1978, not to exceed \$10,000,000; and

“(3) for the fiscal year ending September 30, 1979, not to exceed \$10,000,000.

Any amount appropriated pursuant to this subsection shall remain available until expended.”.

**PART 5—RESIDENTIAL ENERGY EFFICIENCY PROGRAMS**

**SEC. 261. DEFINITION.**

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 304(a) and 305 of the Energy Conservation and Production Act apply and which has a system for heating, cooling, or both.

[42 U.S.C. 8235]



**SEC. 262. 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 263, the application is approved pursuant to section 264, 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, 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);

(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 rate-making 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).

(b) **CONTRACT REQUIREMENTS.**—Any contract entered into by a public utility under subsection (a)(1) 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—

(1) an inspection of such building to determine and inform such owner or occupant of—

(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).

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

[42 U.S.C. 8235a]

**SEC. 263. APPLICATIONS FOR APPROVAL OF PLANS FOR PROTOTYPE RESIDENTIAL ENERGY EFFICIENCY PROGRAMS.**

Each application for the approval of a plan under section 262(a) 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 262(a) and a description of the portion of the service area of the public utility proposing to enter into a contract under section 262(a)(1) which is designated under the contract;

(2) a description of the manner in which the provisions of the plan specified in section 262(a) are to be met;

(3) a description of the contract to be entered into pursuant to section 262(a)(1) and the manner in which the requirements of the contract contained in section 262(b) are to be met;

(4) the record of the public hearing conducted pursuant to section 264(a)(2); and

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

[42 U.S.C. 8235b]

**SEC. 264. APPROVAL OF APPLICATIONS FOR PLANS FOR PROTOTYPE RESIDENTIAL ENERGY EFFICIENCY PROGRAMS.**

(a) **APPROVAL REQUIREMENTS.**—The Secretary may approve an application submitted under section 263 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 rate-making 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, after notice 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) 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.

[42 U.S.C. 8235c]

**SEC. 265. 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 the date of the enactment of this part.

(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).

[42 U.S.C. 8235d]

**SEC. 266. AUTHORITY OF THE 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 ratemaking 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 262(a), if the Commission determines that such exemption is necessary to make feasible the demonstration of such prototype residential energy efficiency program.

[42 U.S.C. 8235e]

**SEC. 267. 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 1.—Any public utility entering into a contract under a plan for the establishment of a prototype residential energy efficiency program approved under section 262(a) 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 215, if the contract requires such actions (or equivalent actions as determined by the Secretary) to be taken.

(c) DEFINITION.—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 October 15, 1914, as amended (U.S.C., title 15, sec. 13), and for other purposes” approved June 19, 1936 (15 U.S.C. 12a, 13a, and 13b, commonly known as the Robinson-Patman Antidiscrimination Act).

[42 U.S.C. 8235f]

#### **SEC. 268. RECORDS AND REPORTS.**

(a) **RECORDS.**—Each State and local government submitting any application for a plan which is approved under section 262(a), 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 657 of the Department of Energy Organization Act (42 U.S.C. 7267) 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 262(a);

(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 262(a); and

(4) if the Secretary determines that it is appropriate, an analysis of the impact of expanding the approval of plans under section 262(a) 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.

[42 U.S.C. 8235g]

#### **SEC. 269. REVOKING APPROVAL OF PLANS AND TERMINATING FINANCIAL ASSISTANCE.**

The Secretary shall revoke the approval of any plan under section 262(a) for the establishment of a prototype residential energy efficiency program, and shall terminate the provision of financial assistance under section 262(c) to carry out such plan, if the Secretary determines, in consultation with the Federal Trade Commis-

sion 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.

【42 U.S.C. 8235h】

#### SEC. 270. 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.

【42 U.S.C. 8235i】

### PART 6—RESIDENTIAL ENERGY EFFICIENCY RATING GUIDELINES

#### SEC. 271. VOLUNTARY RATING GUIDELINES.

(a) IN GENERAL.—Not later than 18 months after the date of the enactment of the Energy Policy Act of 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) 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.

[42 U.S.C. 8236]

#### **SEC. 272. TECHNICAL ASSISTANCE.**

Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, the Secretary shall establish a program to provide technical assistance to State and local organizations to encourage the adoption of and use of residential energy efficiency rating systems consistent with the voluntary guidelines issued under section 271.

[42 U.S.C. 8236a]

#### **SEC. 273. REPORT.**

Not later than 3 years after the date of the enactment of the Energy Policy Act of 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 271 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.

[42 U.S.C. 8236b]

### **TITLE III—ENERGY CONSERVATION PROGRAMS FOR SCHOOLS AND HOSPITALS AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENTS AND PUBLIC CARE INSTITUTIONS.**

#### **PART 1—SCHOOLS AND HOSPITALS**

#### **SEC. 301. STATEMENT OF FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds that—

(1) the Nation's nonrenewable energy resources are being rapidly depleted;

(2) schools and hospitals are major consumers of energy, and have been especially burdened by rising energy prices and fuel shortages;

(3) substantial energy conservation can be achieved in schools and hospitals through the implementation of energy conservation maintenance and operating procedures and the installation of energy conservation measures; and

(4) public and nonprofit schools and hospitals in many instances need financial assistance in order to make the necessary improvements to achieve energy conservation.

(b) PURPOSE.—It is the purpose of this part to authorize grants to States and to public and nonprofit schools and hospitals to assist them in identifying and implementing energy conservation maintenance and operating procedures and in evaluating, acquiring, and installing energy conservation measures to reduce the energy use and anticipated energy costs of schools and hospitals.

[42 U.S.C. 6371 note]

#### **SEC. 302. AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.**

(a) AMENDMENT TO TITLE III.—[Amends title III of the Energy Policy and Conservation Act which appears in this compilation.]

(b) TABLE OF CONTENTS.—[Amends the table of contents for such title III.]

(c) SEVERABILITY.—If any provision of this title or the application thereof to any person or circumstances be held invalid, the provisions of other sections of this title and their application to other persons or circumstances shall not be affected thereby.

[42 U.S.C. 6371 note, 6372 note]

#### **SEC. 303. TECHNICAL AMENDMENTS**

[Amends the Public Health Service Act.]

### **PART 2—UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS**

#### **SEC. 310. STATEMENT OF FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds that—

(1) the Nation's nonrenewable energy resources are being rapidly depleted;

(2) buildings owned by units of local government and public care institutions are major consumers of energy, and such units and institutions have been especially burdened by rising energy prices and fuel shortages;

(3) substantial energy conservation can be achieved in buildings owned by units of local government and public care institutions through the implementation of energy conservation maintenance and operating procedures; and

(4) units of local government and public care institutions in many instances need financial assistance in order to conduct energy audits and to identify energy conservation maintenance and operating procedures and to evaluate the potential benefits of acquiring and installing energy conservation measures.



(b) **PURPOSE.**—It is the purpose of this part to authorize grants to States and units of local government and public care institutions to assist them in conducting preliminary energy audits and energy audits in identifying and implementing energy conservation maintenance and operating procedures and in evaluating energy conservation measures to reduce the energy use and anticipated energy costs of buildings owned by units of local government and public care institutions.

[42 U.S.C. 6372 note]

**SEC. 311. AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.**

[Amends title III of the Energy Policy and Conservation Act which appears in this compilation, by adding a new part H.]

**SEC. 312. APPLICATION OF DAVIS-BACON ACT.**

No grant for a project (other than so much of a grant as is used for a preliminary energy audit, energy audit, or technical assistance or a grant the total project cost of which is \$5,000 or less, excluding costs for a preliminary energy audit, energy audit, or technical assistance) shall be made under this part or part 1 unless the Secretary finds that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction utilizing such grants will be paid at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Act of March 31, 1931 (40 U.S.C. 276a—276a–5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

[42 U.S.C. 6371j]

**TITLE IV—ENERGY EFFICIENCY OF CERTAIN PRODUCTS AND PROCESSES**

**PART 1—ENERGY EFFICIENCY STANDARDS FOR AUTOMOBILES**

[Sections 401 through 404 were repealed by section 7(b) of Public Law 103–272.]

**PART 2—ENERGY EFFICIENCY STANDARDS FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES**

**SEC. 421. TEST PROCEDURES.**

[Amends the Energy Policy and Conservation Act (42 U.S.C. 6293(a)(4)).]

**SEC. 422. ENERGY EFFICIENCY STANDARDS.**

[Amends the Energy Policy and Conservation Act which appears in this compilation by adding a new section 325.]

**SEC. 423. ASSESSMENT OF CIVIL PENALTIES.**

【Amends the Energy Policy and Conservation Act which appears in this compilation, by adding a new section 333(d).】

**SEC. 424. EFFECT OF STANDARDS ON OTHER LAWS.**

【Amends the Energy Policy and Conservation Act.】

**SEC. 425. TECHNICAL AND CONFORMING AMENDMENTS**

【Amends the Energy Policy and Conservation Act.】

**SEC. 426. APPROPRIATIONS AUTHORIZATION.**

【Amends the Energy Policy and Conservation Act (42 U.S.C. 6309).】

**SEC. 427. EFFECTS OF OTHER LAWS ON PROCEDURES.**

【Amends the Energy Policy and Conservation Act (42 U.S.C. 6306).】

**PART 3—ENERGY EFFICIENCY OF INDUSTRIAL EQUIPMENT****SEC. 441. ENERGY EFFICIENCY OF INDUSTRIAL EQUIPMENT.**

【Amends title III of the Energy Policy and Conservation Act, which appears in this compilation.】

**PART 4—ENERGY EFFICIENCY BY USE OF RECOVERED MATERIALS****SEC. 461. USE OF RECOVERED MATERIALS.**

(a) FINDINGS.—The Congress finds that—

(1) significant amounts of industrial energy and other scarce natural resources are conserved in certain majority energy-consuming industries where recovered materials are utilized in their manufacturing operations;

(2) substantial additional volumes of industrial energy and other scarce natural resources will be conserved in future years if such major energy-consuming industries increase to the maximum feasible extent utilization of recovered materials in their manufacturing operations;

(3) millions of tons of recoverable materials which could be used by such industries are needlessly wasted and buried each year at great cost to State and local governments, while technology and methods exist whereby those materials could readily be made available for utilization; and

(4) the recovery and utilization of such recovered materials can substantially reduce the dependence of the United States on foreign natural resources and reduce the growing deficit in its balance of payments.

(b) PURPOSES.—The purposes of this subtitle are to conserve valuable energy and scarce natural resources, promote the national security, and protect the environment by—

(1) directing that targets for increased industrial utilization of recovered materials be established for certain major energy-consuming industries;

(2) creating procedures whereby such industries may cooperate with the Federal Government in the establishment and achievement of such targets; and

(3) providing incentives for increased industrial utilization of energy-saving recovered materials in such major energy-consuming industries.

【42 U.S.C. 6344a note】

(c) **TARGETS FOR USE OF RECOVERED MATERIALS.**—【Amends part E of title III of the Energy Policy and Conservation Act, which appears in this compilation, by adding a new section 374A.】

(d) **TECHNICAL AMENDMENTS.**—(1) 【Amends section 376 of such Act.】

## **TITLE V—FEDERAL ENERGY INITIATIVE**

### **PART 1—EXECUTIVE AGENCY CONSERVATION PLAN**

#### **SEC. 501. CONSERVATION PLAN AUTHORIZATION.**

【Amends section 381 of the Energy Policy and Conservation Act.】

### **PART 2—DEMONSTRATION OF SOLAR HEATING AND COOLING IN FEDERAL BUILDINGS**

#### **SEC. 521. DEFINITIONS.**

As used in the part—

(1) The term “Federal agency” means—

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

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

(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 under the terms of such agreement without further negotiation.

(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.

(6) The term “Secretary” means the Secretary of Energy.

【42 U.S.C. 8241】

**SEC. 522. FEDERAL SOLAR PROGRAM.**

The Secretary, in consultation with the Administrator of the General Services Administration, shall develop and carry out a program to demonstrate the application to buildings of solar heating and solar heating and cooling technology in Federal buildings.

[42 U.S.C. 8242]

**SEC. 523. DUTIES OF SECRETARY.**

(a) DUTIES.—In exercising the authority provided by section 522, the Secretary, in consultation with the Administrator of the General Services Administration, shall—

(1) promulgate, by rule—

(A) requirements under which Federal agencies shall submit proposals for the installation of solar energy equipment in Federal buildings which are under their control and which are selected in accordance with procedures set forth in such rule, and

(B) criteria by which proposals under subparagraph (A) will be evaluated, which criteria shall provide for the inclusion in each proposal of a complete analysis of the present value, as determined by the Secretary, of the costs and benefits of the proposal to the Federal agency, and for the demonstration, to the maximum extent practicable, of innovative and diverse applications to a variety of types of Federal buildings of solar heating and solar heating and cooling technology, and for location of demonstration projects in areas where a private sector market for solar energy equipment is likely to develop;

(2) evaluate in writing each such proposal pursuant to the criteria promulgated pursuant to paragraph (1)(B), and make such evaluation available to the agency and, upon request, to any person;

(3) provide technical and financial assistance by inter-agency agreement for implementing a proposal evaluated under paragraph (2) and approved by the Secretary; except that such assistance shall be limited to the design, acquisition, construction, and installation of solar energy equipment;

(4) provide, by rule, that Federal agencies report to the Secretary periodically such information as they acquire respecting maintenance and operation of solar energy equipment for which assistance is provided under paragraph (3);

(5) require that a life cycle cost analysis in accordance with part 3 be done for any Federal building for which a proposal is submitted under this section and the results of such analysis be included in such proposal; and

(6) if solar energy equipment for which assistance is to be provided under paragraph (3) is not the minimum life-cycle cost alternative, require the Federal agency involved to submit a report to the Secretary stating the amount by which the life-cycle cost of such equipment exceeds the minimum life-cycle cost.

(b) CONTENTS OF PROPOSALS.—Proposals under paragraph (1)(A) of subsection (a) shall include a list of the specific Federal buildings proposed to be provided with solar energy equipment, the

funds necessary for the acquisition and installation of such equipment, the proposed implementation schedule, maintenance costs, the estimated savings in fossil fuels and electricity, the estimated payback time, and such other information as may be required by the Secretary.

(c) INITIAL SUBMISSION OF PROPOSALS.—Under the requirements established under subsection (a)(1)(A), initial proposals for the installation of solar energy equipment in Federal buildings selected under subsection (a)(1)(A) shall be submitted not later than 180 days after the date of promulgation of the rule under subsection (a)(1).

(d) In order to more widely disseminate information about the program under this part and under part 3 and the benefits of renewable energy and energy efficiency technology, the Secretary shall establish a program which includes site visits and technical briefings, to disseminate such information to Federal procurement officers and Federal loan officers. The Secretary shall utilize available funds for the program under this subsection.

[42 U.S.C. 8243]

#### SEC. 524. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary through fiscal year ending September 30, 1980, to carry out the purposes of this part not to exceed \$100,000,000. Funds so appropriated may be transferred by the Secretary to any Federal agency to the extent necessary to carry out the purposes of section 523(a)(3).

[42 U.S.C. 8244]

### PART 3—FEDERAL ENERGY MANAGEMENT

#### SEC. 541. FINDINGS.

The Congress finds that—

(1) the Federal Government is the largest single energy consumer in the Nation;

(2) the cost of meeting the Federal Government's energy requirement is substantial;

(3) there are significant opportunities in the Federal Government to conserve and make more efficient use of energy through improved operations and maintenance, the use of new energy efficient technologies, and the application and achievement of energy efficient design and construction;

(4) Federal energy conservation measures can be financed at little or no cost to the Federal Government by using private investment capital made available through contracts authorized by title VIII of this Act; and

(5) an increase in energy efficiency by the Federal Government would benefit the Nation by reducing the cost of government, reducing national dependence on foreign energy resources, and demonstrating the benefits of greater energy efficiency to the Nation.

[42 U.S.C. 8251]

**SEC. 542. PURPOSE.**

It is the purpose of this part to promote the conservation and the efficient use of energy and water, and the use of renewable energy sources, by the Federal Government.

[42 U.S.C. 8252]

**SEC. 543. ENERGY AND WATER MANAGEMENT REQUIREMENTS.**

(a) **ENERGY PERFORMANCE REQUIREMENT FOR FEDERAL BUILDINGS.**—(1) Subject to paragraph (2), each agency shall apply energy conservation measures to, and shall improve the design for the construction of, the Federal buildings of the agency (including each industrial or laboratory facility) so that the energy consumption per gross square foot of the Federal buildings of the agency in fiscal years 2006 through 2015 is reduced, as compared with the energy consumption per gross square foot of the Federal buildings of the agency in fiscal year 2003, by the percentage specified in the following table:

<b>Fiscal Year</b>	<b>Percentage Reduction</b>
2006 .....	2
2007 .....	4
2008 .....	9
2009 .....	12
2010 .....	15
2011 .....	18
2012 .....	21
2013 .....	24
2014 .....	27
2015 .....	30.

(2) An agency may exclude from the requirements of paragraph (1) any building, and the associated energy consumption and gross square footage, in which energy intensive activities are carried out. Each agency shall identify and list in each report made under section 548(a) the buildings designated by it for such exclusion.

(3) Not later than December 31, 2014, the Secretary shall review the results of the implementation of the energy performance requirement established under paragraph (1) and submit to Congress recommendations concerning energy performance requirements for fiscal years 2016 through 2025.

**(b) ENERGY AND WATER MANAGEMENT REQUIREMENT FOR FEDERAL AGENCIES.—**

(1) **IN GENERAL.**—Each agency shall—

(A) not later than October 1, 2022, to the maximum extent practicable, begin installing in Federal buildings owned by the United States all energy and water conservation measures determined by the Secretary to be life cycle cost-effective (as defined in subsection (f)(1)); and

(B) complete the installation described in subparagraph (A) as soon as practicable after the date referred to in that subparagraph.

(2) **EXPLANATION OF NONCOMPLIANCE.**—

(A) **IN GENERAL.**—If an agency fails to comply with paragraph (1), the agency shall submit to the Secretary, using guidelines developed by the Secretary, an explanation of the reasons for the failure.

(B) REPORT TO CONGRESS.—Not later than January 1, 2022, and every 2 years thereafter, the Secretary shall submit to Congress a report that describes any noncompliance by an agency with the requirements of paragraph (1).

(3) This subsection shall not apply to an agency's facilities that generate or transmit electric energy or to the uranium enrichment facilities operated by the Department of Energy.

(4) An agency may participate in the Environmental Protection Agency's "Green Lights" program for purposes of receiving technical assistance in complying with the requirements of this section.

(c) EXCLUSIONS.—(1)(A) The head of each agency may exclude, from the energy or water performance requirement for a fiscal year established under subsection (a) and the energy or water management requirement established under subsection (b), any Federal building or collection of Federal buildings, if the head of the agency finds that—

(i) compliance with those requirements would be impracticable;

(ii) the agency has completed and submitted all federally required energy or water management reports;

(iii) the agency has achieved compliance with the energy or water efficiency requirements of this Act, the Energy Policy Act of 1992, Executive orders, and other Federal law; and

(iv) the agency has implemented all practicable, life cycle cost-effective projects with respect to the Federal building or collection of Federal buildings to be excluded.

(B) A finding of impracticability under subparagraph (A)(i) shall be based on—

(i) the energy or water intensiveness of activities carried out in the Federal building or collection of Federal buildings; or

(ii) the fact that the Federal building or collection of Federal buildings is used in the performance of a national security function.

(2) Each agency shall identify and list, in each report made under section 548(a), the Federal buildings designated by it for such exclusion. The Secretary shall review such findings for consistency with the standards for exclusion set forth in paragraph (1), and may within 90 days after receipt of the findings, reverse the exclusion. In the case of any such reversal, the agency shall comply with the requirements of subsections (a) and (b)(1) for the building concerned.

(3) Not later than 180 days after the date of enactment of this paragraph, the Secretary shall issue guidelines that establish criteria for exclusions under paragraph (1).

(d) IMPLEMENTATION STEPS.—The Secretary shall consult with the Secretary of Defense and the Administrator of General Services in developing guidelines for the implementation of this part. To meet the requirements of this section, each agency shall—

(1) prepare and submit to the Secretary, not later than December 31, 1993, a plan describing how the agency intends to meet such requirements, including how it will—

(A) designate personnel primarily responsible for achieving such requirements;

(B) identify high priority projects through calculation of payback periods;

(C) take maximum advantage of contracts authorized under title VIII of this Act, of financial incentives and other services provided by utilities for efficiency investment, and of other forms of financing to reduce the direct costs to the Government; and

(D) otherwise implement this part;

(2) perform energy and water surveys of its Federal buildings to the extent necessary and update such surveys as needed, incorporating any relevant information obtained from the survey conducted pursuant to section 550;

(3) using such surveys, determine the cost and payback period of energy and water conservation measures likely to achieve the requirements of this section;

(4) install energy and water conservation measures that will achieve the requirements of this section through the methods and procedures established pursuant to section 544; and

(5) ensure that the operation and maintenance procedures applied under this section are continued.

(e) METERING OF ENERGY AND WATER USE.—

(1) DEADLINE.—By October 1, 2022, in accordance with guidelines established by the Secretary under paragraph (2), all Federal buildings shall, for the purposes of efficient use of energy and water and reduction in the cost of electricity and water used in such buildings, be metered. Each agency shall use, to the maximum extent practicable, advanced meters or advanced metering devices that provide data at least daily and that measure at least hourly consumption of electricity and water in the Federal buildings of the agency. Not later than October 1, 2016, each agency shall provide for equivalent metering of natural gas and steam, in accordance with guidelines established by the Secretary under paragraph (2). Such data shall be incorporated into existing Federal energy and water tracking systems and made available to Federal facility managers.

(2) GUIDELINES.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary, in consultation with the Department of Defense, the General Services Administration, representatives from the metering industry, utility industry, energy services industry, energy efficiency industry, energy efficiency advocacy organizations, national laboratories, universities, Federal facility managers, and any other person the Secretary deems necessary, shall establish guidelines for agencies to carry out paragraph (1).

(B) REQUIREMENTS FOR GUIDELINES.—The guidelines shall—

(i) take into consideration—

(I) the cost of metering and the reduced cost of operation and maintenance expected to result from metering;



(II) the extent to which metering is expected to result in increased potential for energy and water management, increased potential for energy and water savings and energy and water efficiency improvement, and cost and energy and water savings due to utility contract aggregation; and

(III) the measurement and verification protocols of the Department of Energy;

(ii) include recommendations concerning the amount of funds and the number of trained personnel necessary to gather and use the metering information to track and reduce energy and water use;

(iii) establish priorities for types and locations of buildings to be metered based on cost-effectiveness and a schedule of one or more dates, not later than 1 year after the date of issuance of the guidelines, on which the requirements specified in paragraph (1) shall take effect; and

(iv) establish exclusions from the requirements specified in paragraph (1) based on the de minimis quantity of energy and water use of a Federal building, industrial process, or structure.

(C) UPDATE.—Not later than 180 days after the date of enactment of this subparagraph, the Secretary shall update the guidelines established under subparagraph (A) to take into account water efficiency requirements under this section.

(3) PLAN.—Not later than 180 days after the date on which guidelines are updated under paragraph (2)(C), in a report submitted by the agency under section 548(a), each agency shall submit to the Secretary a plan describing the manner in which the agency will implement the requirements of paragraph (1), including—

(A) how the agency will designate personnel primarily responsible for achieving the requirements; and

(B) a demonstration by the agency, complete with documentation, of any finding that advanced meters or advanced metering devices (as those terms are used in paragraph (1)), are not practicable.

(4) BEST PRACTICES REPORT.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Energy Act of 2020, the Secretary of Energy, in consultation with the Secretary of Defense and the Administrator of General Services, shall develop, and issue a report on, best practices for the use of advanced metering of energy and water use in Federal facilities, buildings, and equipment by Federal agencies.

(B) COMPONENTS.—The report shall include, at a minimum—

(i) summaries and analysis of the reports by agencies under paragraph (3);

(ii) recommendations on standard requirements or guidelines for automated energy and water management systems, including—

(I) potential common communications standards to allow data sharing and reporting;

(II) means of facilitating continuous commissioning of buildings and evidence-based maintenance of buildings and building systems; and

(III) standards for sufficient levels of security and protection against cyber threats to ensure systems cannot be controlled by unauthorized persons; and

(iii) an analysis of—

(I) the types of advanced metering and monitoring systems being piloted, tested, or installed in Federal buildings; and

(II) existing techniques used within the private sector or other non-Federal government buildings.

(f) USE OF ENERGY AND WATER EFFICIENCY MEASURES IN FEDERAL BUILDINGS.—

(1) DEFINITIONS.—In this subsection:

(A) COMMISSIONING.—The term “commissioning”, with respect to a facility, means a systematic process—

(i) of ensuring, using appropriate verification and documentation, during the period beginning on the initial day of the design phase of the facility and ending not earlier than 1 year after the date of completion of construction of the facility, that all facility systems perform interactively in accordance with—

(I) the design documentation and intent of the facility; and

(II) the operational needs of the owner of the facility, including preparation of operation personnel; and

(ii) the primary goal of which is to ensure fully functional systems that can be properly operated and maintained during the useful life of the facility.

(B) ENERGY MANAGER.—

(i) IN GENERAL.—The term “energy manager”, with respect to a facility, means the individual who is responsible for—

(I) ensuring compliance with this subsection by the facility; and

(II) reducing energy use at the facility.

(ii) INCLUSIONS.—The term “energy manager” may include—

(I) a contractor of a facility;

(II) a part-time employee of a facility; and

(III) an individual who is responsible for multiple facilities.

(C) FACILITY.—

(i) IN GENERAL.—The term “facility” means any building, installation, structure, or other property (in-

cluding any applicable fixtures) owned or operated by, or constructed or manufactured and leased to, the Federal Government.

(ii) INCLUSIONS.—The term “facility” includes—

(I) a group of facilities at a single location or multiple locations managed as an integrated operation; and

(II) contractor-operated facilities owned by the Federal Government.

(iii) EXCLUSIONS.—The term “facility” does not include any land or site for which the cost of utilities is not paid by the Federal Government.

(D) LIFE CYCLE COST-EFFECTIVE.—The term “life cycle cost-effective”, with respect to a measure, means a measure, the estimated savings of which exceed the estimated costs over the lifespan of the measure, as determined in accordance with section 544.

(E) ONGOING COMMISSIONING.—The term “ongoing commissioning” means an ongoing process of commissioning using monitored data, the primary goal of which is to ensure continuous optimum performance of a facility, in accordance with design or operating needs, over the useful life of the facility, while meeting facility occupancy requirements.

(F) PAYBACK PERIOD.—

(i) IN GENERAL.—Subject to clause (ii), the term “payback period”, with respect to a measure, means a value equal to the quotient obtained by dividing—

(I) the estimated initial implementation cost of the measure (other than financing costs); by

(II) the annual cost savings resulting from the measure, including—

(aa) net savings in estimated energy and water costs; and

(bb) operations, maintenance, repair, replacement, and other direct costs.

(ii) MODIFICATIONS AND EXCEPTIONS.—The Secretary, in guidelines issued pursuant to paragraph (6), may make such modifications and provide such exceptions to the calculation of the payback period of a measure as the Secretary determines to be appropriate to achieve the purposes of this Act.

(G) RECOMMISSIONING.—The term “recommissioning” means a process—

(i) of commissioning a facility or system beyond the project development and warranty phases of the facility or system; and

(ii) the primary goal of which is to ensure optimum performance of a facility, in accordance with design or current operating needs, over the useful life of the facility, while meeting building occupancy requirements.

(H) RETROCOMMISSIONING.—The term “retrocommissioning” means a process of commissioning a

facility or system that was not commissioned at the time of construction of the facility or system.

(2) FACILITY ENERGY MANAGERS.—

(A) IN GENERAL.—Each Federal agency shall designate an energy manager responsible for implementing this subsection and reducing energy and water use at each facility that meets criteria under subparagraph (B).

(B) COVERED FACILITIES.—The Secretary shall develop criteria, after consultation with affected agencies, efficiency advocates, and energy and utility service providers, that cover, at a minimum, Federal facilities, including central utility plants and distribution systems and other energy intensive operations, that constitute at least 75 percent of facility energy or water use at each agency.

(C) ENERGY MANAGEMENT SYSTEM.—An energy manager designated for a facility under subparagraph (A) shall take into consideration—

(i) the use of a system to manage energy and water use at the facility; and

(ii) the applicability of the certification of the facility in accordance with the International Organization for Standardization standard numbered 50001 and entitled “Energy Management Systems”.

(3) ENERGY AND WATER EVALUATIONS AND COMMISSIONING.—

(A) EVALUATIONS.—Except as provided in subparagraph (B), not later than the date that is 180 days after the date of enactment of the Energy Act of 2020, and annually thereafter, each energy manager shall complete, for the preceding calendar year, a comprehensive energy and water evaluation and recommissioning or retrocommissioning for approximately 25 percent of the facilities of the applicable agency that meet the criteria under paragraph (2)(B) in a manner that ensures that an evaluation of each facility is completed not less frequently than once every 4 years.

(B) EXCEPTIONS.—An evaluation and recommissioning or retrocommissioning shall not be required under subparagraph (A) with respect to a facility that, as of the date on which the evaluation and recommissioning or retrocommissioning would occur—

(i) has had a comprehensive energy and water evaluation during the preceding 8-year period;

(ii)(I) has been commissioned, recommissioned, or retrocommissioned during the preceding 10-year period; or

(II) is under ongoing commissioning, recommissioning, or retrocommissioning;

(iii) has not had a major change in function or use since the previous evaluation and recommissioning or retrocommissioning;

(iv) has been benchmarked with public disclosure under paragraph (8) during the preceding calendar year; and

(v)(I) based on the benchmarking described in clause (iv), has achieved at a facility level the most recent cumulative energy savings target under subsection (a) compared to the earlier of—

(aa) the date of the most recent evaluation; or  
(bb) the date—

(AA) of the most recent commissioning, recommissioning, or retrocommissioning; or

(BB) on which ongoing commissioning began; or

(II) has a long-term contract in place guaranteeing energy savings at least as great as the energy savings target under subclause (I).

(4) IMPLEMENTATION OF IDENTIFIED ENERGY AND WATER EFFICIENCY MEASURES.—

(A) IN GENERAL.—Not later than 2 years after the date of completion of each evaluation under paragraph (3), each energy manager shall implement any energy- or water-saving measure that—

(i) the Federal agency identified in the evaluation; and

(ii) is life cycle cost-effective, as determined by evaluating an individual measure or a bundle of measures with varying paybacks.

(B) PERFORMANCE CONTRACTING.—Each Federal agency shall use performance contracting to address at least 50 percent of the measures identified under subparagraph (A)(i).

(5) FOLLOW-UP ON IMPLEMENTED MEASURES.—For each measure implemented under paragraph (4), each energy manager shall ensure that—

(A) equipment, including building and equipment controls, is fully commissioned at acceptance to be operating at design specifications;

(B) a plan for appropriate operations, maintenance, and repair of the equipment is in place at acceptance and is followed;

(C) equipment and system performance is measured during its entire life to ensure proper operations, maintenance, and repair; and

(D) energy and water savings are measured and verified.

(6) GUIDELINES.—

(A) IN GENERAL.—The Secretary shall issue guidelines and necessary criteria that each Federal agency shall follow for implementation of—

(i) paragraphs (2) and (3) not later than 180 days after the date of enactment of this subsection; and

(ii) paragraphs (4) and (5) not later than 1 year after the date of enactment of this subsection.

(B) RELATIONSHIP TO FUNDING SOURCE.—The guidelines issued by the Secretary under subparagraph (A) shall be appropriate and uniform for measures funded with each type of funding made available under paragraph (10), but

may distinguish between different types of measures project size, and other criteria the Secretary determines are relevant.

(7) WEB-BASED CERTIFICATION.—

(A) IN GENERAL.—For each facility that meets the criteria established by the Secretary under paragraph (2)(B), the energy manager shall use the web-based tracking system under subparagraph (B)—

(i) to certify compliance with the requirements for—

(I) energy and water evaluations under paragraph (3);

(II) implementation of identified energy and water measures under paragraph (4); and

(III) follow-up on implemented measures under paragraph (5); and

(ii) to publish energy and water consumption data on an individual facility basis.

(B) DEPLOYMENT.—

(i) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall develop and deploy a web-based tracking system required under this paragraph in a manner that tracks, at a minimum—

(I) the covered facilities;

(II) the status of meeting the requirements specified in subparagraph (A);

(III) the estimated cost and savings for measures required to be implemented in a facility;

(IV) the measured savings and persistence of savings for implemented measures; and

(V) the benchmarking information disclosed under paragraph (8)(C).

(ii) EASE OF COMPLIANCE.—The Secretary shall ensure that energy manager compliance with the requirements in this paragraph, to the maximum extent practicable—

(I) can be accomplished with the use of streamlined procedures and templates that minimize the time demands on Federal employees; and

(II) is coordinated with other applicable energy and water reporting requirements.

(C) AVAILABILITY.—

(i) IN GENERAL.—Subject to clause (ii), the Secretary shall make the web-based tracking system required under this paragraph available to Congress, other Federal agencies, and the public through the Internet.

(ii) EXEMPTIONS.—At the request of a Federal agency, the Secretary may exempt specific data for specific facilities from disclosure under clause (i) for national security purposes.

(8) BENCHMARKING OF FEDERAL FACILITIES.—

(A) IN GENERAL.—The energy manager shall enter energy use data for each metered building that is (or is a part of) a facility that meets the criteria established by the Secretary under paragraph (2)(B) into a building energy use benchmarking system, such as the Energy Star Portfolio Manager.

(B) SYSTEM AND GUIDANCE.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall—

(i) select or develop the building energy use benchmarking system required under this paragraph for each type of building; and

(ii) issue guidance for use of the system.

(C) PUBLIC DISCLOSURE.—Each energy manager shall post the information entered into, or generated by, a benchmarking system under this subsection, on the web-based tracking system under paragraph (7)(B). The energy manager shall update such information each year, and shall include in such reporting previous years' information to allow changes in building performance to be tracked over time.

(9) FEDERAL AGENCY SCORECARDS.—

(A) IN GENERAL.—The Director of the Office of Management and Budget shall issue semiannual scorecards for energy and water management activities carried out by each Federal agency that includes—

(i) summaries of the status of implementing the various requirements of the agency and its energy managers under this subsection; and

(ii) any other means of measuring performance that the Director considers appropriate.

(B) AVAILABILITY.—The Director shall make the scorecards required under this paragraph available to Congress, other Federal agencies, and the public through the Internet.

(10) FUNDING AND IMPLEMENTATION.—

(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(B) FUNDING OPTIONS.—

(i) IN GENERAL.—To carry out this subsection, a Federal agency may use any combination of—

(I) appropriated funds made available under subparagraph (A); and

(II) private financing otherwise authorized under Federal law, including financing available through energy savings performance contracts or utility energy service contracts.

(ii) COMBINED FUNDING FOR SAME MEASURE.—A Federal agency may use any combination of appropriated funds and private financing described in clause (i) to carry out the same measure under this subsection.

(C) IMPLEMENTATION.—Each Federal agency may implement the requirements under this subsection itself or may contract out performance of some or all of the requirements.

(11) RULE OF CONSTRUCTION.—This subsection shall not be construed to require or to obviate any contractor savings guarantees.

(g) LARGE CAPITAL ENERGY INVESTMENTS.—

(1) IN GENERAL.—Each Federal agency shall ensure that any large capital energy investment in an existing building that is not a major renovation but involves replacement of installed equipment (such as heating and cooling systems), or involves renovation, rehabilitation, expansion, or remodeling of existing space, employs the most energy efficient designs, systems, equipment, and controls that are life-cycle cost effective.

(2) PROCESS FOR REVIEW OF INVESTMENT DECISIONS.—Not later than 180 days after the date of enactment of this subsection, each Federal agency shall—

(A) develop a process for reviewing each decision made on a large capital energy investment described in paragraph (1) to ensure that the requirements of this subsection are met; and

(B) report to the Director of the Office of Management and Budget on the process established.

(3) COMPLIANCE REPORT.—Not later than 1 year after the date of enactment of this subsection, the Director of the Office of Management and Budget shall evaluate and report to Congress on the compliance of each agency with this subsection.

(h) FEDERAL IMPLEMENTATION STRATEGY FOR ENERGY-EFFICIENT AND ENERGY-SAVING INFORMATION TECHNOLOGIES.—

(1) DEFINITIONS.—In this subsection:

(A) DIRECTOR.—The term “Director” means the Director of the Office of Management and Budget.

(B) INFORMATION TECHNOLOGY.—The term “information technology” has the meaning given that term in section 11101 of title 40, United States Code.

(2) DEVELOPMENT OF IMPLEMENTATION STRATEGY.—Not later than 1 year after the date of enactment of the Energy Act of 2020, each Federal agency shall coordinate with the Director, the Secretary, and the Administrator of the Environmental Protection Agency to develop an implementation strategy (including best-practices and measurement and verification techniques) for the maintenance, purchase, and use by the Federal agency of energy-efficient and energy-saving information technologies at or for facilities owned and operated by the Federal agency, taking into consideration the performance goals established under paragraph (4).

(3) ADMINISTRATION.—In developing an implementation strategy under paragraph (2), each Federal agency shall consider—

(A) advanced metering infrastructure;

(B) energy efficient data center strategies and methods of increasing asset and infrastructure utilization;

(C) advanced power management tools;



(D) building information modeling, including building energy management;

(E) secure telework and travel substitution tools; and

(F) mechanisms to ensure that the agency realizes the energy cost savings of increased efficiency and utilization.

(4) PERFORMANCE GOALS.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Energy Act of 2020, the Director, in consultation with the Secretary, shall establish performance goals for evaluating the efforts of Federal agencies in improving the maintenance, purchase, and use of energy-efficient and energy-saving information technology at or for facilities owned and operated by the Federal agencies.

(B) BEST PRACTICES.—The Chief Information Officers Council established under section 3603 of title 44, United States Code, shall recommend best practices for the attainment of the performance goals established under subparagraph (A), which shall include, to the extent applicable by law, consideration by a Federal agency of the use of—

(i) energy savings performance contracting; and

(ii) utility energy services contracting.

(5) REPORTS.—

(A) AGENCY REPORTS.—Each Federal agency shall include in the report of the agency under section 527 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17143) a description of the efforts and results of the agency under this subsection.

(B) OMB GOVERNMENT EFFICIENCY REPORTS AND SCORECARDS.—Effective beginning not later than October 1, 2022, the Director shall include in the annual report and scorecard of the Director required under section 528 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17144) a description of the efforts and results of Federal agencies under this subsection.

(C) USE OF EXISTING REPORTING STRUCTURES.—The Director may require Federal agencies to submit any information required to be submitted under this subsection through reporting structures in use as of the date of enactment of the Energy Act of 2020.

(i) FEDERAL ENERGY MANAGEMENT PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a program, to be known as the “Federal Energy Management Program” (referred to in this subsection as the “Program”), to facilitate the implementation by the Federal Government of cost-effective energy and water management and energy-related investment practices—

(A) to coordinate and strengthen Federal energy and water resilience;

(B) to promote environmental stewardship; and

(C) to reduce energy consumption during periods of unusually high electricity or natural gas demand.

(2) FEDERAL DIRECTOR.—The Secretary shall appoint an individual to serve as the director of the Program (referred to in this subsection as the “Federal Director”), which shall be a ca-

reer position in the Senior Executive service, to administer the Program.

(3) PROGRAM ACTIVITIES.—

(A) STRATEGIC PLANNING AND TECHNICAL ASSISTANCE.—In administering the Program, the Federal Director shall—

(i) provide technical assistance and project implementation support and guidance to agencies to identify, implement, procure, and track energy and water conservation measures required under this Act and under other provisions of law;

(ii) in coordination with the Administrator of the General Services Administration, establish appropriate procedures, methods, and best practices for use by agencies to select, monitor, and terminate contracts entered into pursuant to a utility incentive program under section 546(c) with utilities;

(iii) carry out the responsibilities of the Secretary under section 801, as determined appropriate by the Secretary;

(iv) establish and maintain internet-based information resources and project tracking systems and tools for energy and water management;

(v) coordinate comprehensive and strategic approaches to energy and water resilience planning for agencies;

(vi) establish a recognition program for Federal achievement in energy and water management, energy-related investment practices, environmental stewardship, and other relevant areas, through events such as individual recognition award ceremonies and public announcements; and

(vii) promote the installation of demand-response technology and the use of demand-response practices in Federal buildings.

(B) ENERGY AND WATER MANAGEMENT AND REPORTING.—In administering the Program, the Federal Director shall—

(i) track and report on the progress of agencies in meeting the requirements of the agency under this section;

(ii) make publicly available agency performance data required under—

(I) this section and sections 544, 546, 547, and 548; and

(II) section 203 of the Energy Policy Act of 2005 (42 U.S.C. 15852);

(iii)(I) collect energy and water use and consumption data from each agency; and

(II) based on that data, submit to each agency a report that will facilitate the energy and water management, energy-related investment practices, and environmental stewardship of the agency in support of

Federal goals under this Act and under other provisions of law;

(iv) carry out the responsibilities of the Secretary under section 305 of the Energy Conservation and Production Act (42 U.S.C. 6834);

(v) in consultation with the Administrator of the General Services Administration, acting through the head of the Office of High-Performance Green Buildings, establish and implement sustainable design principles for Federal facilities; and

(vi) designate products that meet the highest energy conservation standards for categories not covered under the Energy Star program established under section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a).

(C) FEDERAL INTERAGENCY COORDINATION.—In administering the Program, the Federal Director shall—

(i) develop and implement accredited training consistent with existing Federal programs and activities—

(I) relating to energy and water use, management, and resilience in Federal facilities, energy-related investment practices, and environmental stewardship; and

(II) that includes in-person training, internet-based programs, and national in-person training events;

(ii) carry out the functions of the Secretary with respect to the Interagency Energy Management Task Force under section 547; and

(iii) report on the implementation of the priorities of the President, including Executive orders, relating to energy and water use in Federal facilities, in coordination with—

(I) the Office of Management and Budget;

(II) the Council on Environmental Quality;

and

(III) any other entity, as considered necessary by the Federal Director.

(D) FACILITY AND FLEET OPTIMIZATION.—In administering the Program, the Federal Director shall develop guidance, supply assistance to, and track the progress of agencies—

(i) in conducting portfolio-wide facility energy and water resilience planning and project integration;

(ii) in building new construction and major renovations to meet the sustainable design and energy and water performance standards required under this section;

(iii) in developing guidelines for—

(I) facility commissioning; and

(II) facility operations and maintenance; and

(iv) in coordination with the Administrator of the General Services Administration, in meeting statutory and agency goals for Federal fleet vehicles.

(4) MANAGEMENT COUNCIL.—The Federal Director shall establish a management council to advise the Federal Director that shall—

(A) convene not less frequently than once every quarter; and

(B) consist of representatives from—

(i) the Council on Environmental Quality;

(ii) the Office of Management and Budget; and

(iii) the Office of Federal High-Performance Green Buildings in the General Services Administration.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this subsection \$36,000,000 for each of fiscal years 2021 through 2025.

[42 U.S.C. 8253]

**SEC. 544. ESTABLISHMENT AND USE OF LIFE CYCLE COST METHODS AND PROCEDURES.**

(a) ESTABLISHMENT OF LIFE CYCLE COST METHODS AND PROCEDURES.—The Secretary, in consultation with the Director of the Office of Management and Budget, the Secretary of Defense, the Director of the National Institute of Standards and Technology, and the Administrator of the General Services Administration, shall—

(1) establish practical and effective present value methods for estimating and comparing life cycle costs for Federal buildings, using the sum of all capital and operating expenses associated with the energy system of the building involved over the expected life of such system or during a period of 40 years, whichever is shorter, and using average fuel costs and a discount rate determined by the Secretary; and

(2) develop and prescribe the procedures to be followed in applying and implementing the methods so established.

(b) USE OF LIFE CYCLE COST METHODS AND PROCEDURES.—(1) The design of new Federal buildings, and the application of energy conservation measures to existing Federal buildings, shall be made using life cycle cost methods and procedures established under subsection (a).

(2) In leasing buildings for its own use or that of another agency, each agency shall, after January 1, 1994, fully consider the efficiency of all potential building space at the time of renewing or entering into a new lease.

(c) USE IN NON-FEDERAL STRUCTURES.—The Secretary shall make available information to the public on the use of life cycle cost methods in the construction of buildings, structures, and facilities in all segments of the economy.

[42 U.S.C. 8254]

**SEC. 545. BUDGET TREATMENT FOR ENERGY CONSERVATION MEASURES.**

The President shall transmit to the Congress, along with each budget that is submitted to the Congress under section 1105 of title 31, United States Code, a statement of the amount of appropriations requested in such budget, if any, on an individual agency basis, for—

(1) electric and other energy costs to be incurred in operating and maintaining agency facilities; and

(2) compliance with the provisions of this part, the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.), and all applicable Executive orders, including Executive Order 12003 (42 U.S.C. 6201 note) and Executive Order 12759 (56 Fed. Reg. 16257).

[42 U.S.C. 8255]

**SEC. 546. INCENTIVES FOR AGENCIES.**

(a) **CONTRACTS.**—(1) Each agency shall establish a program of incentives for conserving, and otherwise making more efficient use of, energy as a result of entering into contracts under title VIII of this Act.

(2) The Secretary shall, not later than 18 months after the date of the enactment of the Energy Policy Act of 1992 and after consultation with the Director of the Office of Management and Budget, the Secretary of Defense, and the Administrator of General Services, develop appropriate procedures and methods for use by agencies to implement the incentives referred to in paragraph (1).

(b) **FEDERAL ENERGY EFFICIENCY FUND.**—(1) The Secretary shall establish a Federal Energy Efficiency Fund to provide grants to agencies to assist them in meeting the requirements of section 543.

(2) Not later than June 30, 1993, the Secretary shall issue guidelines to be followed by agencies submitting proposals for such grants. All agencies shall be eligible to submit proposals for grants under the Fund.

(3) The Secretary shall award grants from the Fund after a competitive assessment of the technical and economic effectiveness of each agency proposal. The Secretary shall consider the following factors in determining whether to provide funding under this subsection:

(A) The cost-effectiveness of the project.

(B) The amount of energy and cost savings anticipated to the Federal Government.

(C) The amount of funding committed to the project by the agency requesting financial assistance.

(D) The extent that a proposal leverages financing from other non-Federal sources.

(E) Any other factor which the Secretary determines will result in the greatest amount of energy and cost savings to the Federal Government.

(4) There are authorized to be appropriated, to remain available to be expended, to carry out this subsection not more than \$10,000,000 for fiscal year 1994, \$50,000,000 for fiscal year 1995, and such sums as may be necessary for fiscal years thereafter.

(c) **UTILITY INCENTIVE PROGRAMS.**—(1) Agencies are authorized and encouraged to participate in programs to increase energy efficiency and for water conservation or the management of electricity demand conducted by gas, water, or electric utilities and generally available to customers of such utilities.

(2) Each agency may accept any financial incentive, goods, or services generally available from any such utility, to increase energy efficiency or to conserve water or manage electricity demand.

(3) Each agency is encouraged to enter into negotiations with electric, water, and gas utilities to design cost-effective demand management and conservation incentive programs to address the unique needs of facilities utilized by such agency.

(4) If an agency satisfies the criteria which generally apply to other customers of a utility incentive program, such agency may not be denied collection of rebates or other incentives.

(d) FINANCIAL INCENTIVE PROGRAM FOR FACILITY ENERGY MANAGERS.—(1) The Secretary shall, in consultation with the Task Force established pursuant to section 547, establish a financial bonus program to reward, with funds made available for such purpose, outstanding Federal facility energy managers in agencies and the United States Postal Service.

(2) Not later than June 1, 1993, the Secretary shall issue procedures for implementing and conducting the award program, including the criteria to be used in selecting outstanding energy managers and contributors who have—

(A) improved energy performance through increased energy efficiency;

(B) implemented proven energy efficiency and energy conservation techniques, devices, equipment, or procedures;

(C) developed and implemented training programs for facility energy managers, operators, and maintenance personnel;

(D) developed and implemented employee awareness programs;

(E) succeeded in generating utility incentives, shared energy savings contracts, and other federally approved performance based energy savings contracts;

(F) made successful efforts to fulfill compliance with energy reduction mandates, including the provisions of section 543; and

(G) succeeded in the implementation of the guidelines established under section 159.<sup>3</sup>

(3) There is authorized to be appropriated to carry out this subsection not more than \$250,000 for each of the fiscal years 1993, 1994, and 1995.

(e) RETENTION OF ENERGY AND WATER SAVINGS.—An agency may retain any funds appropriated to that agency for energy expenditures, water expenditures, or wastewater treatment expenditures, at buildings subject to the requirements of section 543(a) and (b), that are not made because of energy savings or water savings. Except as otherwise provided by law, such funds may be used only for energy efficiency, water conservation, or unconventional and renewable energy resources projects. Such projects shall be subject to the requirements of section 3307 of title 40, United States Code.

[42 U.S.C. 8256]

<sup>3</sup> Probably should refer to section 159 of the Energy Policy Act of 1992.

**SEC. 547. INTERAGENCY ENERGY MANAGEMENT TASK FORCE.**

(a) **IN GENERAL.**—To assist the interagency committee organized under section 656 of the Department of Energy Organization Act (42 U.S.C. 7266) to coordinate the activities of the Federal Government in promoting energy conservation and the efficient use of energy and in informing non-Federal entities of the Federal experience in energy conservation, the Secretary shall establish an Interagency Energy Management Task Force (hereafter in this section referred to as the “Task Force”).

(b) **MEMBERS.**—The Task Force shall be composed of the chief energy managers of agencies represented on the interagency committee organized under section 656 of the Department of Energy Organization Act.

(c) **DUTIES.**—The Task Force shall meet when the Secretary requests, but not less often than twice a year, to—

(1) assess the progress of the various agencies in achieving energy savings;

(2) collect and disseminate information to agencies, States, local governments, and the public on effective survey techniques, innovative approaches to the efficient use of energy, incentive programs developed under section 546, innovative contracting methods developed under title VIII of this Act, the use of cogeneration facilities and renewable resources, and other technologies that promote the conservation and efficient use of energy;

(3) coordinate energy surveys conducted by the agencies;

(4) develop options for use in conserving energy;

(5) report to the committee organized under section 656 of the Department of Energy Organization Act; and

(6) review, from time to time as may be necessary, the regulations relating to building temperature settings to determine whether changes in such regulations would be appropriate to assist in meeting the goals specified in section 543.

[42 U.S.C. 8257]

**SEC. 548. REPORTS.**

(a) **REPORTS TO THE SECRETARY.**—Each agency shall transmit a report to the Secretary, at times specified by the Secretary but at least annually, with complete information on its activities under this part, including information on—

(1) the agency’s progress in achieving the goals established by section 543; and

(2) the procedures being used by the agency pursuant to section 546(a)(2), the number of contracts entered into by such agency under title VIII of this Act, the energy and cost savings that have resulted from such contracts and any termination penalty exposure, the use of such cost savings under section 546(c), and any problem encountered in entering into such contracts and otherwise implementing section 546.

(b) **REPORTS TO THE PRESIDENT AND CONGRESS.**—The Secretary shall report, not later than April 2 of each year, with respect to each fiscal year beginning after the date of the enactment of this subsection, to the President and Congress—

(1) on all activities carried out under this part and on the progress made toward achievement of the objectives of this part, including—

(A) a copy of the list of the exclusions made under sections 543(a)(2) and 543(c)(3);

(B) the information required under section 543(b)(2); and

(C) a statement detailing the amount of funds awarded to each agency under section 546(b), the energy and water conservation measures installed with such funds, the projected energy and water savings to be realized from installed measures, and, for each installed measure for which the projected energy and water savings reported in the previous year were not realized, the percentage of such projected savings that was not realized, the reasons such savings were not realized, and proposals for, and projected costs of, achieving such projected savings in the future;

(2) the number of contracts entered into by all agencies under title VIII of this Act, the difficulties (if any) encountered in attempting to enter into such contracts, and proposed solutions to those difficulties;

(3) the extent and nature of interagency exchange of information concerning the conservation and efficient utilization of energy;

(4) the information required under section 161(d) of the Energy Policy Act of 1992; and

(5)(A) the status of the energy savings performance contracts and utility energy service contracts of each agency, to the extent that the information is not duplicative of information provided to the Secretary under a separate authority;

(B) the quantity and investment value of the contracts for the previous year;

(C) the guaranteed energy savings, or for contracts without a guarantee, the estimated energy savings, for the previous year, as compared to the measured energy savings for the previous year;

(D) a forecast of the estimated quantity and investment value of contracts anticipated in the following year for each agency; and

(E)(i) a comparison of the information described in subparagraph (B) and the forecast described in subparagraph (D) in the report of the previous year; and

(ii) if applicable, the reasons for any differences in the data compared under clause (i).

(c) OTHER REPORT.—The Secretary, in consultation with the Administrator of General Services, shall—

(1) conduct a study and evaluate legal, institutional, and other constraints to connecting buildings owned or leased by the Federal Government to district heating and district cooling systems; and

(2) not later than 18 months after the date of the enactment of this subsection, transmit to the Congress a report containing the findings and conclusions of such study, including recommendations for the development of streamlined processes



for the consideration of connecting buildings owned or leased by the Federal Government to district heating and cooling systems.

[42 U.S.C. 8258]

**SEC. 549. DEMONSTRATION OF NEW TECHNOLOGY.**

(a) **DEMONSTRATION PROGRAM.**—Not later than January 1, 1994, the Secretary, in cooperation with the Administrator of General Services, shall establish a demonstration program to install, in federally owned facilities or federally assisted housing, energy conservation measures for which the Secretary has determined that such installation would accelerate commercial viability. In those cases where technologies are determined to be equivalent, priority shall be given to those technologies that have received or are receiving Federal financial assistance.

(b) **SELECTION CRITERIA.**—In addition to the determination under subsection (a), the Secretary shall select, in cooperation with the Administrator of General Services, proposals to be funded under this section on the basis of—

- (1) cost-effectiveness;
- (2) technical feasibility and system reliability in a working environment;
- (3) lack of market penetration in the Federal sector;
- (4) the potential needs of the proposing Federal agency for the technology, projected over 5 to 10 years;
- (5) the potential Federal sector market, projected over 5 to 10 years;
- (6) energy efficiency; and
- (7) other environmental benefits, including the projected reduction of greenhouse gas emissions and indoor air pollution.

(c) **PROPOSALS.**—Federal agencies may submit to the Secretary, for each fiscal year, proposals for projects to be funded by the Secretary under this section. Each such proposal shall include—

- (1) a description of the proposed project emphasizing the innovative use of technology in the Federal sector;
- (2) a description of the technical reliability and cost-effectiveness data expected to be acquired;
- (3) an identification of the potential needs of the Federal agency for the technology;
- (4) a commitment to adopt the technology, if the project establishes its technical reliability and life cycle cost-effectiveness, to supply at least 10 percent of the Federal agency's potential needs identified under paragraph (3);
- (5) schedules and milestones for installing additional units; and
- (6) a technology transfer plan to publicize the results of the project.

(d) **PARTICIPATION BY GSA.**—The Secretary may only select a project for funding under this section which is proposed to be carried out in a building under the jurisdiction of the General Services Administration if the project will be carried out by the Administrator of General Services. If such project involves a total expenditure in excess of \$1,600,000, no appropriation shall be made for such project unless such project has been approved by a resolution

adopted by the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(e) **STUDY.**—The Secretary shall conduct a study to evaluate the potential use of the purchasing power of the Federal Government to promote the development and commercialization of energy efficient products. The study shall identify products for which there is a high potential for Federal purchasing power to substantially promote their development and commercialization, and shall include a plan to develop such potential. The study shall be conducted in consultation with utilities, manufacturers, and appropriate nonprofit organizations concerned with energy efficiency. The Secretary shall report to the Congress on the results of the study not later than two years after the date of the enactment of this Act.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary for carrying out this section \$5,000,000 for each of the fiscal years 1993, 1994, and 1995.

[42 U.S.C. 8258a]

#### **SEC. 550. SURVEY OF ENERGY SAVING POTENTIAL.**

(a) **IN GENERAL.**—The Secretary shall, in consultation with the Interagency Energy Management Task Force established under section 547, carry out an energy survey for the purposes of—

(1) determining the maximum potential cost effective energy savings that may be achieved in a representative sample of buildings owned or leased by the Federal Government in different areas of the country;

(2) making recommendations for cost effective energy efficiency and renewable energy improvements in those buildings and in other similar Federal buildings; and

(3) identifying barriers which may prevent an agency's ability to comply with section 543 and other energy management goals.

(b) **IMPLEMENTATION.**—(1) The Secretary shall transmit to the Committee on Energy and Natural Resources and the Committee on Governmental Affairs of the Senate and the Committee on Energy and Commerce, the Committee on Government Operations, and the Committee on Public Works and Transportation of the House of Representatives, within 180 days after the date of the enactment of the Energy Policy Act of 1992, a plan for implementing this section.

(2) The Secretary shall designate buildings to be surveyed in the project so as to obtain a sample of the buildings of the types and in the climates that is representative of buildings owned or leased by Federal agencies in the United States that consume the major portion of the energy consumed in Federal buildings. Such sample shall include, where appropriate, the following types of Federal facility space:

- (A) Housing.
- (B) Storage.
- (C) Office.
- (D) Services.
- (E) Schools.

(F) Research and Development.

(G) Industrial.

(H) Prisons.

(I) Hospitals.

(3) For purposes of this section, an improvement shall be considered cost effective if the cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the remaining life of a Federal building or the remaining term of a lease of a building leased by the Federal Government as determined by the life cycle costing methodology developed under section 544.

(c) PERSONNEL.—(1) In carrying out this section, the Secretary shall utilize personnel who are—

(A) employees of the Department of Energy; or

(B) selected by the agencies utilizing the buildings which are being surveyed under this section.

(2) Such personnel shall be detailed for the purpose of carrying out this section without any reduction of salary or benefits.

(d) REPORT.—As soon as practicable after the completion of the project carried out under this section, the Secretary shall transmit a report of the findings and conclusions of the project to the Committee on Energy and Natural Resources and the Committee on Governmental Affairs of the Senate, the Committee on Energy and Commerce, the Committee on Government Operations, and the Committee on Public Works and Transportation of the House of Representatives, and the agencies who own the buildings involved in such project. Such report shall include an analysis of the probability of each agency achieving each of the energy reduction goals established under section 543(a).

[42 U.S.C. 8258b]

#### SEC. 551. DEFINITIONS.

For the purposes of this part—

(1) the term “agency” has the meaning given it in section 551(1) of title 5, United States Code;

(2) the term “construction” means new construction or substantial rehabilitation of existing structures;

(3) the term “cogeneration facilities” has the same meaning given such term in section 3(18)(A) of the Federal Power Act (16 U.S.C. 796(18)(A));

(4) the term “energy conservation measures” means measures that are applied to a Federal building that improve energy efficiency and are life cycle cost effective and that involve energy conservation, cogeneration facilities, renewable energy sources, improvements in operations and maintenance efficiencies, retrofit activities, or energy consuming devices and required support structures;

(5) the term “energy survey” means a procedure used to determine energy and cost savings likely to result from the use of appropriate energy related maintenance and operating procedures and modifications, including the purchase and installation of particular energy-related equipment and the use of renewable energy sources;

(6) the term “Federal building” means any building, structure, or facility, or part thereof, including the associated energy

consuming support systems, which is constructed, renovated, leased, or purchased in whole or in part for use by the Federal Government and which consumes energy; such term also means a collection of such buildings, structures, or facilities and the energy consuming support systems for such collection;

(7) the term “life cycle cost” means the total costs of owning, operating, and maintaining a building over its useful life (including such costs as fuel, energy, labor, and replacement components) determined on the basis of a systematic evaluation and comparison of alternative building systems, except that in the case of leased buildings, the life cycle costs shall be calculated over the effective remaining term of the lease;

(8) the term “renewable energy sources” includes, but is not limited to, sources such as agriculture and urban waste, geothermal energy, solar energy, and wind energy; and

(9) the term “Secretary” means the Secretary of Energy.

[42 U.S.C. 8259]

**SEC. 552. ENERGY AND WATER SAVINGS MEASURES IN CONGRESSIONAL BUILDINGS.**

(a) **IN GENERAL.**—The Architect of the Capitol—

(1) shall develop, update, and implement a cost-effective energy conservation and management plan (referred to in this section as the “plan”) for all facilities administered by Congress (referred to in this section as “congressional buildings”) to meet the energy performance requirements for Federal buildings established under section 543(a)(1); and

(2) shall submit the plan to Congress, not later than 180 days after the date of enactment of this section.

(b) **PLAN REQUIREMENTS.**—The plan shall include—

(1) a description of the life cycle cost analysis used to determine the cost-effectiveness of proposed energy efficiency projects;

(2) a schedule of energy surveys to ensure complete surveys of all congressional buildings every 5 years to determine the cost and payback period of energy and water conservation measures;

(3) a strategy for installation of life cycle cost-effective energy and water conservation measures;

(4) the results of a study of the costs and benefits of installation of submetering in congressional buildings; and

(5) information packages and “how-to” guides for each Member and employing authority of Congress that detail simple, cost-effective methods to save energy and taxpayer dollars in the workplace.

(c) **ANNUAL REPORT.**—The Architect of the Capitol shall submit to Congress annually a report on congressional energy management and conservation programs required under this section that describes in detail—

(1) energy expenditures and savings estimates for each facility;

(2) energy management and conservation projects; and

(3) future priorities to ensure compliance with this section.

[42 U.S.C. 8259a]

**SEC. 553. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.**

(a) **DEFINITIONS.**—In this section:

(1) **AGENCY.**—The term “agency” has the meaning given that term in section 7902(a) of title 5, United States Code.

(2) **ENERGY STAR PRODUCT.**—The term “Energy Star product” means a product that is rated for energy efficiency under an Energy Star program.

(3) **ENERGY STAR PROGRAM.**—The term “Energy Star program” means the program established by section 324A of the Energy Policy and Conservation Act.

(4) **FEMP DESIGNATED PRODUCT.**—The term “FEMP designated product” means a product that is designated under the Federal Energy Management Program of the Department of Energy as being among the highest 25 percent of equivalent products for energy efficiency.

(5) **PRODUCT.**—The term “product” does not include any energy consuming product or system designed or procured for combat or combat-related missions.

(b) **PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.**—

(1) **REQUIREMENT.**—To meet the requirements of an agency for an energy consuming product in a product category covered by the Energy Star program or the Federal Energy Management Program for designated products, the head of the agency shall, except as provided in paragraph (2), procure—

- (A) an Energy Star product; or
- (B) a FEMP designated product.

(2) **EXCEPTIONS.**—The head of an agency is not required to procure an Energy Star product or FEMP designated product under paragraph (1) if the head of the agency finds in writing that—

- (A) an Energy Star product or FEMP designated product is not cost-effective over the life of the product taking energy cost savings into account; or
- (B) no Energy Star product or FEMP designated product is reasonably available that meets the functional requirements of the agency.

(3) **PROCUREMENT PLANNING.**—The head of an agency shall incorporate into the specifications for all procurements involving energy consuming products and systems, including guide specifications, project specifications, and construction, renovation, and services contracts that include provision of energy consuming products and systems, and into the factors for the evaluation of offers received for the procurement, criteria for energy efficiency that are consistent with the criteria used for rating Energy Star products and for rating FEMP designated products.

(c) **LISTING OF ENERGY EFFICIENT PRODUCTS IN FEDERAL CATALOGS.**—Energy Star products and FEMP designated products shall be clearly identified and prominently displayed in any inventory or listing of products by the General Services Administration or the Defense Logistics Agency. The General Services Administration or the Defense Logistics Agency shall list in their catalogues, represent as available, and supply only Energy Star products or FEMP

designated products for all product categories covered by the Energy Star program or the Federal Energy Management Program, except in cases in which the head of the agency ordering a product specifies in writing that no Energy Star product or FEMP designated product is available to meet the buyer's functional requirements, or that no Energy Star product or FEMP designated product is cost-effective for the intended application over the life of the product, taking energy cost savings into account.

(d) SPECIFIC PRODUCTS.—(1) In the case of electric motors of 1 to 500 horsepower, agencies shall select only premium efficient motors that meet a standard designated by the Secretary. The Secretary shall designate such a standard not later than 120 days after the date of the enactment of this section, after considering the recommendations of associated electric motor manufacturers and energy efficiency groups.

(2) All Federal agencies are encouraged to take actions to maximize the efficiency of air conditioning and refrigeration equipment, including appropriate cleaning and maintenance, including the use of any system treatment or additive that will reduce the electricity consumed by air conditioning and refrigeration equipment. Any such treatment or additive must be—

(A) determined by the Secretary to be effective in increasing the efficiency of air conditioning and refrigeration equipment without having an adverse impact on air conditioning performance (including cooling capacity) or equipment useful life;

(B) determined by the Administrator of the Environmental Protection Agency to be environmentally safe; and

(C) shown to increase seasonal energy efficiency ratio (SEER) or energy efficiency ratio (EER) when tested by the National Institute of Standards and Technology according to Department of Energy test procedures without causing any adverse impact on the system, system components, the refrigerant or lubricant, or other materials in the system.

Results of testing described in subparagraph (C) shall be published in the Federal Register for public review and comment. For purposes of this section, a hardware device or primary refrigerant shall not be considered an additive.

(e) FEDERALLY-PROCURED APPLIANCES WITH STANDBY POWER.—

(1) DEFINITION OF ELIGIBLE PRODUCT.—In this subsection, the term “eligible product” means a commercially available, off-the-shelf product that—

(A)(i) uses external standby power devices; or

(ii) contains an internal standby power function; and

(B) is included on the list compiled under paragraph

(4).

(2) FEDERAL PURCHASING REQUIREMENT.—Subject to paragraph (3), if an agency purchases an eligible product, the agency shall purchase—

(A) an eligible product that uses not more than 1 watt in the standby power consuming mode of the eligible product; or

- (B) if an eligible product described in subparagraph (A) is not available, the eligible product with the lowest available standby power wattage in the standby power consuming mode of the eligible product.
- (3) LIMITATION.—The requirements of paragraph (2) shall apply to a purchase by an agency only if—
- (A) the lower-wattage eligible product is—
- (i) lifecycle cost-effective; and
  - (ii) practicable; and
- (B) the utility and performance of the eligible product is not compromised by the lower wattage requirement.
- (4) ELIGIBLE PRODUCTS.—The Secretary, in consultation with the Secretary of Defense, the Administrator of the Environmental Protection Agency, and the Administrator of General Services, shall compile a publicly accessible list of cost-effective eligible products that shall be subject to the purchasing requirements of paragraph (2).
- (f) REGULATIONS.—Not later than 180 days after the date of the enactment of this section, the Secretary shall issue guidelines to carry out this section.

【42 U.S.C. 8259b】

#### PART 4—FEDERAL PHOTOVOLTAIC UTILIZATION

##### SEC. 561. SHORT TITLE OF PART.

This part may be cited as the “Federal Photovoltaic Utilization Act”.

【42 U.S.C. 8201 note】

##### SEC. 562. DEFINITIONS.

For purposes of this part—

(1) The term “Federal facility” means any building, structure, or fixture or part thereof which is owned by the United States or any Federal agency or which is held by the United States or any Federal agency under a lease-acquisition agreement under which the United States or a Federal agency will receive fee simple title under the terms of such agreement without further negotiation. Such term also applies to facilities related to programs administered by Federal agencies.

(2) The term “Secretary” means the Secretary of Energy.

【42 U.S.C. 8271】

##### SEC. 563. PHOTOVOLTAIC ENERGY PROGRAM.

There is hereby established a photovoltaic energy commercialization program for the accelerated procurement and installation of photovoltaic solar electric systems for electric production in Federal facilities.

【42 U.S.C. 8272】

##### SEC. 564. PURPOSE OF PROGRAM.

The purpose of the program established by section 563 is to—

(1) accelerate the growth of a commercially viable and competitive industry to make photovoltaic solar electric sys-

tems available to the general public as an option in order to reduce national consumption of fossil fuel;

- (2) reduce fossil fuel costs to the Federal Government;
- (3) stimulate the general use within the Federal Government of methods for the minimization of life cycle costs; and
- (4) develop performance data on the program established by section 563.

【42 U.S.C. 8273】

#### SEC. 565. ACQUISITION OF SYSTEMS.

The program established by section 563 shall provide for the acquisition of photovoltaic solar electric systems and associated storage capability by the Secretary for their use by Federal agencies, and for the acquisition of such systems and associated capability by Federal agencies for their own use in cases where the authority to make such acquisition has been delegated to the agency involved by the Secretary. The acquisition of photovoltaic solar electric systems shall be at an annual level substantial enough to allow use of low-cost production techniques by suppliers of such systems. The Secretary (or other Federal agency acting under delegation from the Secretary) is authorized to make such acquisitions through the use of multiyear contracts. Authority under this part to enter into acquisition contracts shall be only to the extent as may be provided in advance in appropriation Acts.

【42 U.S.C. 8274】

#### SEC. 566. ADMINISTRATION.

The Secretary shall administer the program established under section 563 and shall—

- (1) consult with the Secretary of Defense to insure that the installation and purchase of photovoltaic solar electric systems pursuant to this part shall not interfere with defense-related activities;
- (2) prescribe such requirements as may be appropriate to monitor and assess the performance and operation of photovoltaic electric systems installed pursuant to this part; and
- (3) report annually to the Congress on the status of the program.

Notwithstanding any other provision of law, the Secretary shall not be subject to the requirements of section 553 of title 5, United States Code, in the performance of his functions under this part.

【42 U.S.C. 8275】

#### SEC. 567. SYSTEM EVALUATION AND PURCHASE PROGRAM.

(a) PROGRAM.—The Secretary shall establish, within 60 days after the date of the enactment of this part, a photovoltaic systems evaluation and purchase program to provide such systems as are required by the Federal agencies to carry out this part. In acquiring photovoltaic solar electric systems under this part, the Secretary (or other Federal agency acting under delegation from the Secretary) shall insure that such systems reflect to the maximum extent practicable the most advanced and reliable technologies and shall schedule purchases in a manner which will stimulate the early development of a permanent low-cost private photovoltaic



production capability in the United States, and to stimulate the private sector market for photovoltaic power systems. The Secretary and other Federal agencies acting under delegation from the Secretary shall, subject to the availability of appropriated funds, procure not more than 30 megawatts of photovoltaic solar electric systems during fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.

(b) **OTHER PROCUREMENT.**—Nothing in this part shall preclude any Federal agency from directly procuring a photovoltaic solar electric system (in lieu of obtaining one under the program under subsection (a)), except that any such Federal agency shall consult with the Secretary before procuring such a system.

[42 U.S.C. 8276]

#### **SEC. 568. ADVISORY COMMITTEE.**

(a) **ESTABLISHMENT.**—There is hereby established an advisory committee to assist the Secretary in the establishment and conduct of the programs established under this part.

(b) **MEMBERSHIP.**—Such committee shall be composed of the Secretary of Defense, the Secretary of Housing and Urban Development, the Administrator of the National Aeronautics and Space Administration, the Administrator of the General Services Administration, the Secretary of Transportation, the Administrator of the Small Business Administration, the chairman of the Federal Trade Commission, the Postmaster General, and such other persons as the Secretary deems necessary. The Secretary shall appoint such other nongovernmental persons to the extent necessary to assure that the membership of the committee will be fairly balanced in terms of the point of view represented and the functions to be performed by the committee.

(c) **TERMINATION.**—The advisory committee shall terminate October 1, 1981.

[42 U.S.C. 8277]

#### **SEC. 569. AUTHORIZATION OF APPROPRIATIONS.**

For the purposes of this part, there is authorized to be appropriated to the Secretary not to exceed \$98,000,000, for the period beginning October 1, 1978, and ending September 30, 1981.

[42 U.S.C. 8278]

### **PART 5—PEAK DEMAND REDUCTION**

#### **SEC. 571. NATIONAL ACTION PLAN FOR DEMAND RESPONSE.**

(a) **NATIONAL ASSESSMENT AND REPORT.**—The Federal Energy Regulatory Commission (“Commission”) shall conduct a National Assessment of Demand Response. The Commission shall, within 18 months of the date of enactment of this part, submit a report to Congress that includes each of the following:

- (1) Estimation of nationwide demand response potential in 5 and 10 year horizons, including data on a State-by-State basis, and a methodology for updates of such estimates on an annual basis.

(2) Estimation of how much of this potential can be achieved within 5 and 10 years after the enactment of this part accompanied by specific policy recommendations that if implemented can achieve the estimated potential. Such recommendations shall include options for funding and/or incentives for the development of demand response resources.

(3) The Commission shall further note any barriers to demand response programs offering flexible, non-discriminatory, and fairly compensatory terms for the services and benefits made available, and shall provide recommendations for overcoming such barriers.

(4) The Commission shall seek to take advantage of pre-existing research and ongoing work, and shall insure that there is no duplication of effort.

(b) NATIONAL ACTION PLAN ON DEMAND RESPONSE.—The Commission shall further develop a National Action Plan on Demand Response, soliciting and accepting input and participation from a broad range of industry stakeholders, State regulatory utility commissioners, and non-governmental groups. The Commission shall seek consensus where possible, and decide on optimum solutions to issues that defy consensus. Such Plan shall be completed within 1 year after the completion of the National Assessment of Demand Response, and shall meet each of the following objectives:

(1) Identification of requirements for technical assistance to States to allow them to maximize the amount of demand response resources that can be developed and deployed.

(2) Design and identification of requirements for implementation of a national communications program that includes broad-based customer education and support.

(3) Development or identification of analytical tools, information, model regulatory provisions, model contracts, and other support materials for use by customers, States, utilities and demand response providers.

(c) Upon completion, the National Action Plan on Demand Response shall be published, together with any favorable and dissenting comments submitted by participants in its preparation. Six months after publication, the Commission, together with the Secretary of Energy, shall submit to Congress a proposal to implement the Action Plan, including specific proposed assignments of responsibility, proposed budget amounts, and any agreements secured for participation from State and other participants.

(d) AUTHORIZATION.—There are authorized to be appropriated to the Commission to carry out this section not more than \$10,000,000 for each of the fiscal years 2008, 2009, and 2010.

[42 U.S.C. 8279]

## **TITLE VI—ADDITIONAL ENERGY-RELATED MEASURES**

### **PART 1—INDUSTRIAL ENERGY EFFICIENCY REPORTING**

#### **SEC. 601. INDUSTRIAL ENERGY EFFICIENCY REPORTING.**

(a) IDENTIFICATION OF MAJOR ENERGY CONSUMERS.—[Amends section 373 of the Energy Policy and Conservation Act which appears in this compilation.]

(b) REPORTS.—[Amends the Energy Policy and Conservation Act which appears in this compilation, by adding a new section 375.]

### **PART 2—STATE ENERGY CONSERVATION PLANS**

#### **SEC. 621. STATE ENERGY CONSERVATION PLANS.**

[Amends the Energy Policy and Conservation Act (42 U.S.C. 6325(d)).]

#### **SEC. 622. SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS.**

[Amends the Energy Policy and Conservation Act.]

#### **SEC. 623. REPORT ON COORDINATION OF ENERGY CONSERVATION PROGRAMS.**

Not later than 6 months after the date of the enactment of this section, the Secretary of Energy shall submit to the Congress a report on the coordination of Federal energy conservation programs involving State and local government.

[42 U.S.C. 6321 note]

### **PART 3—MINORITY ECONOMIC IMPACT**

#### **SEC. 641. MINORITY ECONOMIC IMPACT.**

(a) ESTABLISHMENT OF OFFICE OF MINORITY ECONOMIC IMPACT.—[Amends title II of the Department of Energy Organization Act, by adding a new section 211.]

### **PART 4—CONSERVATION OF NATIONAL COAL RESOURCES**

#### **SEC. 661. MAJOR FUEL BURNING STATIONARY SOURCE.**

[Amends the Energy Policy and Conservation Act.]

### **PART 5—STUDIES**

#### **SEC. 681. OFF-HIGHWAY MOTOR VEHICLES.**

[Amends title III of the Energy Policy and Conservation Act.]

#### **SEC. 682. BICYCLE STUDY.**

(a) FINDINGS.—The Congress recognizes that bicycles are the most efficient means of transportation, represent a viable commuting alternative to many people, offer mobility at speeds as fast as that of cars in urban areas, provide health benefit through daily exercise, reduce noise and air pollution, are relatively inexpensive, and deserve consideration in a comprehensive national energy plan.

(b) **STUDY.**—Not more than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall complete a study of the energy conservation of potential bicycle transportation, determine institutional, legal, physical, and personal obstacles to increased bicycle use, establish a target for bicycle use in commuting, and develop a comprehensive program to meet these goals. In developing the program, consideration should be given to educational programs, Federal demonstrations, planning grants, and construction grants. The Secretary of Transportation shall submit a report to the President and to the Congress containing the results of such a study.

[23 U.S.C. 217 note]

**SEC. 683. SECOND LAW EFFICIENCY STUDY.**

(a) **STUDY.**—(1)<sup>4</sup> The Secretary of Energy, in consultation with the Director of the National Bureau of Standards and such other agencies as he deems necessary, shall conduct a study of the relevance to energy conservation programs of the use of the concept of energy efficiency as being the ratio of the minimum available work necessary for accomplishing a given task to the available work in the actual fuel used to accomplish that task.

(b) **REPORT.**—A report on the study under subsection (a) shall be submitted to the Congress within 12 months after the date of enactment of this Act. The programs to be covered by such study include—

(1) energy conservation programs authorized in the Energy Policy and Conservation Act, the Energy Conservation and Production Act, and this Act;

(2) appropriate Federal programs in energy research, development, and demonstration.

(c) **CONTRACT PROCEDURE.**—Any contract in connection with the study or report under this section shall be made by advertising and shall be in accordance with procedures established under the Federal Property and Administrative Services Act.

[42 U.S.C. 6345 note]

**PART 6—TECHNICAL AMENDMENTS**

**SEC. 691. DEFINITION OF ADMINISTRATOR.**

[Amends section 3 of the Energy Policy and Conservation Act (42 U.S.C. 6202(1)).]

[Title VII Repealed by P.L. 99-412]

**TITLE VIII—ENERGY SAVINGS  
PERFORMANCE CONTRACTS**

**SEC. 801. AUTHORITY TO ENTER INTO CONTRACTS.**

(a) **IN GENERAL.**—(1) The head of a Federal agency may enter into contracts under this title solely for the purpose of achieving energy savings and benefits ancillary to that purpose. Each such

<sup>4</sup> So in law. There is no paragraph (2).

contract may, notwithstanding any other provision of law, be for a period not to exceed 25 years. Such contract shall provide that the contractor shall incur costs of implementing energy savings measures, including at least the cost (if any) incurred in making energy audits, acquiring and installing equipment, and training personnel, in exchange for a share of any energy savings directly resulting from implementation of such measures during the term of the contract.

(2)(A) Contracts under this title shall be energy savings performance contracts and shall require an annual energy audit and specify the terms and conditions of any Government payments and performance guarantees. Any such performance guarantee shall provide that the contractor is responsible for maintenance and repair services for any energy related equipment, including computer software systems.

(B) Aggregate annual payments by an agency to both utilities and energy savings performance contractors, under an energy savings performance contract, may not exceed the amount that the agency would have paid for utilities without an energy savings performance contract (as estimated through the procedures developed pursuant to this section) during contract years. The contract shall provide for a guarantee of savings to the agency, and shall establish payment schedules reflecting such guarantee, taking into account any capital costs under the contract.

(C) Federal agencies may incur obligations pursuant to such contracts to finance energy conservation measures provided guaranteed savings exceed the debt service requirements.

(D) A Federal agency may enter into a multiyear contract under this title for a period not to exceed 25 years beginning on the date of the delivery order, without funding of cancellation charges before cancellation, if—

(i) such contract was awarded in a competitive manner pursuant to subsection (b)(2), using procedures and methods established under this title;

(ii) funds are available and adequate for payment of the costs of such contract for the first fiscal year; and

(iii) such contract is governed by part 17.1 of the Federal Acquisition Regulation promulgated under section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) or the applicable rules promulgated under this title.

(E) FUNDING OPTIONS.—In carrying out a contract under this title, a Federal agency may use any combination of—

(i) appropriated funds; and

(ii) private financing under an energy savings performance contract.

(F) PROMOTION OF CONTRACTS.—In carrying out this section, a Federal agency shall not—

(i) establish a Federal agency policy that limits the maximum contract term under subparagraph (D) to a period shorter than 25 years;

(ii) limit the total amount of obligations under energy savings performance contracts or other private financing of energy savings measures; or

(iii) limit the recognition of operation and maintenance savings associated with systems modernized or replaced with the implementation of energy conservation measures, water conservation measures, or any combination of energy conservation measures and water conservation measures.

(G) MEASUREMENT AND VERIFICATION REQUIREMENTS FOR PRIVATE FINANCING.—

(i) IN GENERAL.—In the case of energy savings performance contracts, the evaluations and savings measurement and verification required under paragraphs (2) and (4) of section 543(f) shall be used by a Federal agency to meet the requirements for the need for energy audits, calculation of energy savings, and any other evaluation of costs and savings needed to implement the guarantee of savings under this section.

(ii) MODIFICATION OF EXISTING CONTRACTS.—Not later than 18 months after the date of enactment of this subparagraph, each Federal agency shall, to the maximum extent practicable, modify any indefinite delivery and indefinite quantity energy savings performance contracts, and other indefinite delivery and indefinite quantity contracts using private financing, to conform to the amendments made by subtitle B of title V of the Energy Independence and Security Act of 2007.

(H) MISCELLANEOUS AUTHORITY.—Notwithstanding subtitle I of title 40, United States Code, a Federal agency may accept, retain, sell, or transfer, and apply the proceeds of the sale or transfer of, any energy and water incentive, rebate, grid services revenue, or credit (including a renewable energy certificate) to fund a contract under this title.

(I) EXCLUDED CONTRACTS.—A contract entered into under this title may not be for work performed—

(i) at a Federal hydroelectric facility that provides power marketed by a Power Marketing Administration; or

(ii) at a hydroelectric facility owned and operated by the Tennessee Valley Authority established under the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.).

(b) IMPLEMENTATION.—(1)(A) The Secretary, with the concurrence of the Federal Acquisition Regulatory Council established under section 25(a) of the Office of Federal Procurement Policy Act, not later than 180 days after the date of the enactment of the Energy Policy Act of 1992, shall, by rule, establish appropriate procedures and methods for use by Federal agencies to select, monitor, and terminate contracts with energy service contractors in accordance with laws governing Federal procurement that will achieve the intent of this section in a cost-effective manner. In developing such procedures and methods, the Secretary, with the concurrence of the Federal Acquisition Regulatory Council, shall determine

which existing regulations are inconsistent with the intent of this section and shall formulate substitute regulations consistent with laws governing Federal procurement.

(B) The procedures and methods established pursuant to subparagraph (A) shall be the procedures and contracting methods for selection, by an agency, of a contractor to provide energy savings performance services. Such procedures and methods shall provide for the calculation of energy savings based on sound engineering and financial practices.

(2) The procedures and methods established pursuant to paragraph (1)(A) shall—

(A) allow the Secretary to—

(i) request statements of qualifications, which shall, at a minimum, include prior experience and capabilities of contractors to perform the proposed types of energy savings services and financial and performance information, from firms engaged in providing energy savings services; and

(ii) from the statements received, designate and prepare a list, with an update at least annually, of those firms that are qualified to provide energy savings services;

(B) require each agency to use the list prepared by the Secretary pursuant to subparagraph (A)(ii) unless the agency elects to develop an agency list of firms qualified to provide energy savings performance services using the same selection procedures and methods as are required of the Secretary in preparing such lists; and

(C) allow the head of each agency to—

(i) select firms from the list prepared pursuant to subparagraph (A)(ii) or the list prepared by the agency pursuant to subparagraph (B) to conduct discussions concerning a particular proposed energy savings project, including requesting a technical and price proposal from such selected firms for such project;

(ii) select from such firms the most qualified firm to provide energy savings services based on technical and price proposals and any other relevant information;

(iii) permit receipt of unsolicited proposals for energy savings performance contracting services from a firm that such agency has determined is qualified to provide such services under the procedures established pursuant to paragraph (1)(A), and require agency facility managers to place a notice in the Commerce Business Daily announcing they have received such a proposal and invite other similarly qualified firms to submit competing proposals; and

(iv) enter into an energy savings performance contract with a firm qualified under clause (iii), consistent with the procedures and methods established pursuant to paragraph (1)(A).

(3) A firm not designated as qualified to provide energy savings services under paragraph (2)(A)(i) or paragraph (2)(B) may request a review of such decision to be conducted in accordance with procedures to be developed by the board of contract appeals of the General Services Administration.

(c) TASK OR DELIVERY ORDERS.—(1) The head of a Federal agency may issue a task or delivery order under an energy savings performance contract by—

(A) notifying all contractors that have received an award under such contract that the agency proposes to discuss energy savings performance services for some or all of its facilities and, following a reasonable period of time to provide a proposal in response to the notice, soliciting from such contractors the submission of expressions of interest in, and contractor qualifications for, performing site surveys or investigations and feasibility designs and studies, and including in the notice summary information concerning energy use for any facilities that the agency has specific interest in including in such task or delivery order;

(B) reviewing all expressions of interest and qualifications submitted pursuant to the notice under subparagraph (A);

(C) selecting two or more contractors (from among those reviewed under subparagraph (B)) to conduct discussions concerning the contractors' respective qualifications to implement potential energy conservation measures, including—

(i) requesting references and specific detailed examples with respect to similar efforts and the resulting energy savings of such similar efforts; and

(ii) requesting an explanation of how such similar efforts relate to the scope and content of the task or delivery order concerned;

(D) selecting and authorizing—

(i) more than one contractor (from among those selected under subparagraph (C)) to conduct site surveys, investigations, feasibility designs and studies, or similar assessments for the energy savings performance contract services (or for discrete portions of such services), for the purpose of allowing each such contractor to submit a firm, fixed-price proposal to implement specific energy conservation measures; or

(ii) one contractor (from among those selected under subparagraph (C)) to conduct a site survey, investigation, feasibility design and study, or similar assessment for the purpose of allowing the contractor to submit a firm, fixed-price proposal to implement specific energy conservation measures;

(E) providing a debriefing to any contractor not selected under subparagraph (D);

(F) negotiating a task or delivery order for energy savings performance contracting services with the contractor or contractors selected under subparagraph (D) based on the energy conservation measures identified; and

(G) issuing a task or delivery order for energy savings performance contracting services to such contractor or contractors.

(2) The issuance of a task or delivery order for energy savings performance contracting services pursuant to paragraph (1) is deemed to satisfy the task and delivery order competition requirements in section 3406(d) of title 10, United States Code, and section 4106(d) of title 41, United States Code.



(3) The Secretary may issue guidance as necessary to agencies issuing task or delivery orders pursuant to paragraph (1).

【42 U.S.C. 8287】

#### SEC. 802. PAYMENT OF COSTS.

Any amount paid by a Federal agency pursuant to any contract entered into under this title may be paid only from funds appropriated or otherwise made available to the agency for fiscal year 1986 or any fiscal year thereafter for the payment of energy, water, or wastewater treatment expenses, including related operations and maintenance expenses.

【42 U.S.C. 8287a】

#### SEC. 803. REPORTS.

Each Federal agency shall periodically furnish the Secretary of Energy with full and complete information on its activities under this title, and the Secretary shall include in the report submitted to Congress under section 550 a description of the progress made by each Federal agency in—

- (1) including the authority provided by this title in its contracting practices; and
- (2) achieving energy savings under contracts entered into under this title.

【42 U.S.C. 8287b】

#### SEC. 804. DEFINITIONS.

For purposes of this title, the following definitions apply:

(1) The term “Federal agency” means each authority of the Government of the United States, whether or not it is within or subject to review by another agency.

(2) The term “energy savings” means—

(A) a reduction in the cost of energy, water, or wastewater treatment, from a base cost established through a methodology set forth in the contract, used in an existing Federal building (as defined in section 551) as a result of—

(i) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

(ii) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a Federal building (as defined in section 551); or

(iii) the increased efficient use of existing water sources in either interior or exterior applications;

(B) the increased efficient use of an existing energy source by cogeneration or heat recovery;

(C) if otherwise authorized by Federal or State law (including regulations), the sale or transfer of electrical or thermal energy generated on-site from renewable energy sources or cogeneration, but in excess of Federal needs, to utilities or non-Federal energy users;

(D) the increased efficient use of existing water sources in interior or exterior applications;

(E) the use, sale, or transfer of any energy and water incentive, rebate, grid services revenue, or credit (including a renewable energy certificate); and

(F) any revenue generated from a reduction in energy or water use, more efficient waste recycling, or additional energy generated from more efficient equipment.

(3) The terms “energy savings contract” and “energy savings performance contract” mean a contract that provides for the performance of services for the design, acquisition, installation, testing, and, where appropriate, operation, maintenance, and repair, of an identified energy or water conservation measure or series of measures at 1 or more locations. Such contracts shall, with respect to an agency facility that is a public building (as such term is defined in section 3301 of title 40, United States Code), be in compliance with the prospectus requirements and procedures of section 3307 of title 40, United States Code.

(4) The term “energy or water conservation measure” means—

(A) an energy conservation measure, as defined in section 551; or

(B) a water conservation measure that improves the efficiency of water use, is life-cycle cost-effective, and involves water conservation, water recycling or reuse, more efficient treatment of wastewater or stormwater, improvements in operation or maintenance efficiencies, retrofit activities, or other related activities, not at a Federal hydroelectric facility.

【42 U.S.C. 8287c】