

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), be in compliance with the prospectus requirements and procedures of section 3307 of title 40.

(4) The term “energy or water conservation measure” means—

(A) an energy conservation measure, as defined in section 8259 of this title; 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.

(Pub. L. 95-619, title VIII, § 804, as added Pub. L. 99-272, title VII, § 7201(a), Apr. 7, 1986, 100 Stat. 143; amended Pub. L. 102-486, title I, § 155(b), Oct. 24, 1992, 106 Stat. 2855; Pub. L. 105-388, § 4(b), Nov. 13, 1998, 112 Stat. 3477; Pub. L. 108-375, div. A, title X, § 1090(c)-(e), Oct. 28, 2004, 118 Stat. 2067; Pub. L. 110-140, title V, § 515, Dec. 19, 2007, 121 Stat. 1659.)

#### AMENDMENTS

2007—Par. (2). Pub. L. 110-140 substituted “means—” for “means” in introductory provisions, inserted subpar. (A) designation before “a reduction”, redesignated former subpars. (A) to (C) as cls. (i) to (iii) of subpar. (A), respectively, and added subpars. (B) to (D).

2004—Par. (2). Pub. L. 108-375, § 1090(c), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The term ‘energy savings’ means a reduction in the cost of energy, from a base cost established through a methodology set forth in the contract, utilized in an existing federally owned building or buildings or other federally owned facilities as a result of—

“(A) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services; or

“(B) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities.”

Par. (3). Pub. L. 108-375, § 1090(d), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “The terms ‘energy savings contract’ and ‘energy savings performance contract’ mean a contract which provides for the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy conservation measure or series of measures at one or more locations. Such contracts—

“(A) may provide for appropriate software licensing agreements; and

“(B) shall, with respect to an agency facility that is a public building as such term is defined in section 13(1) of the Public Buildings Act of 1959 (40 U.S.C. 612(1)), be in compliance with the prospectus requirements and procedures of section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606).”

Par. (4). Pub. L. 108-375, § 1090(e), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “The term ‘energy conservation measures’ has the meaning given such term in section 8259(4) of this title.”

1998—Par. (1). Pub. L. 105-388 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The term ‘Federal agency’ means an agency defined in section 551(1) of title 5.”

1992—Pub. L. 102-486, § 155(b)(1), substituted “subchapter, the following definitions apply:” for “subchapter—” in introductory provisions

Par. (1). Pub. L. 102-486, § 155(b)(2), substituted “The” for “the” and a period for “, and” at end.

Par. (2). Pub. L. 102-486, § 155(b)(3), substituted “The term” for “the term”.

Pars. (3), (4). Pub. L. 102-486, § 155(b)(4), added pars. (3) and (4).

#### EFFECTIVE DATE OF 2007 AMENDMENT

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

### § 8287d. Assistance to Federal agencies in achieving energy efficiency in Federal facilities and operations

The Secretary in fiscal year 1999 and thereafter, shall continue the process begun in fiscal year 1998 of accepting funds from other Federal agencies in return for assisting agencies in achieving energy efficiency in Federal facilities and operations by the use of privately financed, energy savings performance contracts and other private financing mechanisms. The funds may be provided after agencies begin to realize energy cost savings; may be retained by the Secretary until expended; and may be used only for the purpose of assisting Federal agencies in achieving greater efficiency, water conservation and use of renewable energy by means of privately financed mechanisms, including energy savings performance contracts and utility incentive programs. These recovered funds will continue to be used to administer even greater energy efficiency, water conservation and use of renewable energy by means of privately financed mechanisms such as utility efficiency service contracts and energy savings performance contracts. The recoverable funds will be used for all necessary program expenses, including contractor support and resources needed, to achieve overall Federal energy management program objectives for greater energy savings. Any such privately financed contracts shall meet the provisions of the Energy Policy Act of 1992, Public Law 102-486 regarding energy savings performance contracts and utility incentive programs.

(Pub. L. 105-277, div. A, § 101(e) [title II], Oct. 21, 1998, 112 Stat. 2681-231, 2681-278.)

#### REFERENCES IN TEXT

The Energy Policy Act of 1992, referred to in text, is Pub. L. 102-486, Oct. 24, 1992, 106 Stat. 2776, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of this title and Tables.

#### CODIFICATION

Section was enacted as part of Department of the Interior and Related Agencies Appropriations Act, 1999, and also as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, and not as part of the National Energy Conservation Policy Act which comprises this chapter.

#### SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation act:

Pub. L. 105-83, title II, Nov. 14, 1997, 111 Stat. 1582.

**CHAPTER 92—POWERPLANT AND INDUSTRIAL FUEL USE**

**SUBCHAPTER I—GENERAL PROVISIONS**

- Sec. 8301. Findings; statement of purposes.
- 8302. Definitions.
- 8303. Territorial application.

**SUBCHAPTER II—NEW FACILITIES**

**PART A—PROHIBITIONS**

- 8311. Coal capability of new electric powerplants; certification of compliance.
- 8312. Repealed.

**PART B—EXEMPTIONS**

- 8321. Temporary exemptions.
- 8322. Permanent exemptions.
- 8323. General requirements for exemptions.
- 8324. Terms and conditions; compliance plans.

**SUBCHAPTER III—EXISTING FACILITIES**

**PART A—PROHIBITIONS**

- 8341. Existing electric powerplants.
- 8342. Repealed.
- 8343. Rules relating to case-by-case and category prohibitions.

**PART B—EXEMPTIONS**

- 8351. Temporary exemptions.
- 8352. Permanent exemptions.
- 8353. General requirements for exemptions.
- 8354. Terms and conditions; compliance plans.

**SUBCHAPTER IV—ADDITIONAL PROHIBITIONS; EMERGENCY AUTHORITIES**

- 8371, 8372. Repealed
- 8373. Conservation in Federal facilities, contracts, and financial assistance programs.
- 8374. Emergency authorities.
- 8375. Repealed.

**SUBCHAPTER V—SYSTEM COMPLIANCE OPTION**

- 8391. Repealed.

**SUBCHAPTER VI—FINANCIAL ASSISTANCE**

- 8401. Assistance to areas impacted by increased coal or uranium production.
- 8401a. “Local government” defined.
- 8402. Loans to assist powerplant acquisitions of air pollution control equipment.

**SUBCHAPTER VII—ADMINISTRATION AND ENFORCEMENT**

**PART A—PROCEDURES**

- 8411. Administrative procedures.
- 8412. Judicial review.

**PART B—INFORMATION AND REPORTING**

- 8421. Information.
- 8422. Compliance report.

**PART C—ENFORCEMENT**

- 8431. Notice of violation; other general provisions.
- 8432. Criminal penalties.
- 8433. Civil penalties.
- 8434. Injunctions and other equitable relief.
- 8435. Citizens suits.

**PART D—PRESERVATION OF CONTRACTUAL RIGHTS**

- 8441. Preservation of contractual interest.

**PART E—STUDIES**

- 8451. National coal policy study.

- Sec. 8452. Repealed.
- 8453. Impact on employees.
- 8454. Study of compliance problem of small electric utility systems.
- 8455. Repealed.
- 8456. Socioeconomic impacts of increased coal production and other energy development.
- 8457. Use of petroleum and natural gas in combustors.

**PART F—APPROPRIATIONS AUTHORIZATION**

- 8461. Authorization of appropriations.

**PART G—COORDINATION WITH OTHER PROVISIONS OF LAW**

- 8471. Effect on environmental requirements.
- 8472. Effect of orders under section 792 of title 15.
- 8473. Environmental impact statements under section 4332 of this title.

**SUBCHAPTER VIII—MISCELLANEOUS PROVISIONS**

- 8481, 8482. Repealed.
- 8483. Submission of reports.
- 8484. Electric utility conservation plan.

**SUBCHAPTER I—GENERAL PROVISIONS**

**§ 8301. Findings; statement of purposes**

**(a) Findings**

The Congress finds that—

- (1) the protection of public health and welfare, the preservation of national security, and the regulation of interstate commerce require the establishment of a program for the expended<sup>1</sup> use, consistent with applicable environmental requirements, of coal and other alternate fuels as primary energy sources for existing and new electric powerplants; and
- (2) the purposes of this chapter are furthered in cases in which coal or other alternate fuels are used by electric powerplants, consistent with applicable environmental requirements, as primary energy sources in lieu of natural gas or petroleum.

**(b) Statement of purposes**

The purpose<sup>2</sup> of this chapter, which shall be carried out in a manner consistent with applicable environmental requirements, are—

- (1) to reduce the importation of petroleum and increase the Nation’s capability to use indigenous energy resources of the United States to the extent such reduction and use further the goal of national energy self-sufficiency and otherwise are in the best interests of the United States;
- (2) to encourage and foster the greater use of coal and other alternate fuels, in lieu of natural gas and petroleum, as a primary energy source;
- (3) to the extent permitted by this chapter, to encourage the use of synthetic gas derived from coal or other alternate fuels;
- (4) to encourage the rehabilitation and upgrading of railroad service and equipment necessary to transport coal to regions or States which can use coal in greater quantities;
- (5) to encourage the modernization or replacement of existing and new electric power-

<sup>1</sup> So in original. Probably should be “expanded”.

<sup>2</sup> So in original. Probably should be “purposes”.