amended Pub. L. 102–486, title I, §124(a), Oct. 24, 1992, 106 Stat. 2832.)

AMENDMENTS

1992—Pub. L. 102–486 amended section generally, substituting provisions requiring energy conservation standards for high-intensity discharge lamps, distribution transformers, and small electric motors, for provisions authorizing appropriations for fiscal years 1978 and 1979.

STUDY OF UTILITY DISTRIBUTION TRANSFORMERS; REPORT TO CONGRESS

Pub. L. 102–486, title I, §124(c), Oct. 24, 1992, 106 Stat. 2833, provided that: ''The Secretary shall evaluate the practicability, cost-effectiveness, and potential energy savings of replacing, or upgrading components of, existing utility distribution transformers during routine maintenance and, not later than 18 months after the date of the enactment of this Act [Oct. 24, 1992], report the findings of such evaluation to the Congress with recommendations on how such energy savings, if any, could be achieved.''

PART B—STATE ENERGY CONSERVATION PLANS

CODIFICATION

This part, originally designated part C and subsequently redesignated part D by Pub. L. 95–619, title IV, §441(a), Nov. 9, 1978, 92 Stat. 3267, was changed to part B for purposes of codification.

§ 6321. Congressional findings and declaration of purpose

(a) The Congress finds that—

(1) the development and implementation by States of laws, policies, programs, and procedures to conserve and to improve efficiency in the use of energy will have an immediate and substantial effect in reducing the rate of growth of energy demand and in minimizing the adverse social, economic, political, and environmental impacts of increasing energy consumption;

(2) the development and implementation of energy conservation programs by States will most efficiently and effectively minimize any adverse economic or employment impacts of changing patterns of energy use and meet local economic, climatic, geographic, and other unique conditions and requirements of each State; and

(3) the Federal Government has a responsibility to foster and promote comprehensive energy conservation programs and practices by establishing guidelines for such programs and providing overall coordination, technical assistance, and financial support for specific State initiatives in energy conservation.

(b) It is the purpose of this part to promote the conservation of energy and reduce the rate of growth of energy demand by authorizing the Secretary to establish procedures and guidelines for the development and implementation of specific State energy conservation programs and to provide Federal financial and technical assistance to States in support of such programs.

(Pub. L. 94–163, title III, §361, Dec. 22, 1975, 89 Stat. 932; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95–619 substituted ''Secretary'' for ''Administrator'', meaning Administrator of the Federal Energy Administration.

REPORT ON COORDINATION OF ENERGY CONSERVATION PROGRAMS

Pub. L. 95–619, title VI, §623, Nov. 9, 1978, 92 Stat. 3283, provided that not later than 6 months after Nov. 9, 1978, the Secretary of Energy submit a report on the coordination of Federal energy conservation programs involving State and local government.

§ 6322. State energy conservation plans

(a) Feasibility reports

The Secretary shall, by rule, within 60 days after December 22, 1975, prescribe guidelines for the preparation of a State energy conservation feasibility report. The Secretary shall invite the Governor of each State to submit, within 3 months after the effective date of such guidelines, such a report. Such report shall include—

(1) an assessment of the feasibility of establishing a State energy conservation goal, which goal shall consist of a reduction, as a result of the implementation of the State energy conservation plan described in this section, of 5 percent or more in the total amount of energy consumed in such State in the year 1980 from the projected energy consumption for such State in the year 1980, and

(2) a proposal by such State for the development of a State energy conservation plan to achieve such goal.

(b) Guidelines

The Secretary shall, by rule, within 6 months after December 22, 1975, prescribe guidelines with respect to measures required to be included in, and guidelines for the development, modification, and funding of, State energy conservation plans. The Secretary shall invite the Governor of each State to submit, within 5 months after the effective date of such guidelines, a report. Such report shall include—

(1) a proposed State energy conservation plan designed to result in scheduled progress toward, and achievement of, the State energy conservation goal of such State; and

(2) a detailed description of the requirements, including the estimated cost of implementation and the estimated energy savings, associated with each functional category of energy conservation included in the State energy conservation plan.

(c) Mandatory features of plans

Each proposed State energy conservation plan to be eligible for Federal assistance under this part shall include—

(1) mandatory lighting efficiency standards for public buildings (except public buildings owned or leased by the United States);

(2) programs to promote the availability and use of carpools, vanpools, and public transportation (except that no Federal funds provided under this part shall be used for subsidizing fares for public transportation);

(3) mandatory standards and policies relating to energy efficiency to govern the procurement practices of such State and its political subdivisions;

(4) mandatory thermal efficiency standards and insulation requirements for new and renovated buildings (except buildings owned or leased by the United States);

(5) a traffic law or regulation which, to the maximum extent practicable consistent with safety, permits the operator of a motor vehicle to turn such vehicle right at a red stop light after stopping and to turn such vehicle left from a one-way street onto a one-way street at a red light after stopping; and

(6) procedures for ensuring effective coordination among various local, State, and Federal energy conservation programs within the State, including any program administered within the Office of Technical and Financial Assistance of the Department of Energy and the Low Income Home Energy Assistance Program administered by the Department of Health and Human Services.

(d) Optional features of plans

Each proposed State energy conservation plan may include—

(1) restrictions governing the hours and conditions of operation of public buildings (except buildings owned or leased by the United States);

(2) restrictions on the use of decorative or nonessential lighting;

(3) programs to increase transportation energy efficiency, including programs to accelerate the use of alternative transportation fuels for State government vehicles, fleet vehicles, taxies, mass transit, and privately owned vehicles;

(4) programs of public education to promote energy conservation;

(5) programs for financing energy efficiency and renewable energy capital investments, projects, and programs—

(A) which may include loan programs and performance contracting programs for leveraging of additional public and private sector funds, and programs which allow rebates, grants, or other incentives for the purchase and installation of energy efficiency and renewable energy measures; or

(B) in addition to or in lieu of programs described in subparagraph (A), which may be used in connection with public or nonprofit buildings owned and operated by a State, a political subdivision of a State or an agency or instrumentality of a State, or an organization exempt from taxation under section 501(c)(3) of title 26;

(6) programs for encouraging and for carrying out energy audits with respect to buildings and industrial facilities (including industrial processes) within the State;

(7) programs to promote the adoption of integrated energy plans which provide for—

(A) periodic evaluation of a State's energy needs, available energy resources (including greater energy efficiency), and energy costs; and

(B) utilization of adequate and reliable energy supplies, including greater energy efficiency, that meet applicable safety, environmental, and policy requirements at the lowest cost;

(8) programs to promote energy efficiency in residential housing, such as—

(A) programs for development and promotion of energy efficiency rating systems for newly constructed housing and existing housing so that consumers can compare the energy efficiency of different housing; and

(B) programs for the adoption of incentives for builders, utilities, and mortgage lenders to build, service, or finance energy efficient housing;

(9) programs to identify unfair or deceptive acts or practices which relate to the implementation of energy efficiency measures and renewable resource energy measures and to educate consumers concerning such acts or practices;

(10) programs to modify patterns of energy consumption so as to reduce peak demands for energy and improve the efficiency of energy supply systems, including electricity supply systems;

(11) programs to promote energy efficiency as an integral component of economic development planning conducted by State, local, or other governmental entities or by energy utilities;

(12) in accordance with subsection (f)(2) of this section, programs to implement the Energy Technology Commercialization Services Program;

(13) programs (enlisting appropriate trade and professional organizations in the development and financing of such programs) to provide training and education (including, if appropriate, training workshops, practice manuals, and testing for each area of energy efficiency technology) to building designers and contractors involved in building design and construction or in the sale, installation, and maintenance of energy systems and equipment to promote building energy efficiency improvements;

(14) programs for the development of building retrofit standards and regulations, including retrofit ordinances enforced at the time of the sale of a building;

(15) support for prefeasibility and feasibility studies for projects that utilize renewable energy and energy efficiency resource technologies in order to facilitate access to capital and credit for such projects;

(16) programs to facilitate and encourage the voluntary use of renewable energy technologies for eligible participants in Federal agency programs, including the Rural Electrification Administration and the Farmers Home Administration; and

(17) any other appropriate method or programs to conserve and to promote efficiency in the use of energy.

(e) Standby plans

The Governor of any State may submit to the Secretary a State energy conservation plan which is a standby energy conservation plan to significantly reduce energy demand by regulating the public and private consumption of energy during a severe energy supply interruption, which plan may be separately eligible for Federal assistance under this part without regard to subsections (c) and (d) of this section.

(f) Energy Technology Commercialization Services Program

(1) The purposes of this subsection are to—

(A) strengthen State outreach programs to aid small and start-up businesses;

(B) foster a broader application of engineering principles and techniques to energy technology products, manufacturing, and commercial production by small and start-up businesses; and

(C) foster greater assistance to small and start-up businesses in dealing with the Federal Government on energy technology related matters.

(2) The programs to implement the functions of the Energy Technology Commercialization Services Program, as provided for by subsection (d)(12) of this section, shall—

(A) aid small and start-up businesses in discovering useful and practical information relating to manufacturing and commercial production techniques and costs associated with new energy technologies;

(B) encourage the application of such information in order to solve energy technology product development and manufacturing problems;

(C) establish an Energy Technology Commercialization Services Program affiliated with an existing entity in each State;

(D) coordinate engineers and manufacturers to aid small and start-up businesses in solving specific technical problems and improving the cost effectiveness of methods for manufacturing new energy technologies;

(E) assist small and start-up businesses in preparing the technical portions of proposals seeking financial assistance for new energy technology commercialization; and

(F) facilitate contract research between university faculty and students and small start-up businesses, in order to improve energy technology product development and independent quality control testing.

(3) Each State energy technology commercialization services program shall develop and maintain a data base of engineering and scientific experts in energy technologies and product commercialization interested in participating in the service. Such data base shall, at a minimum, include faculty of institutions of higher education, retired manufacturing experts, and national laboratory personnel.

(4) The services provided by the energy technology commercialization services programs established under this subsection shall be available to any small or start-up business. Such service programs shall charge fees which are affordable to a party eligible for assistance, which shall be determined by examining factors, including the following: (A) the costs of the services received; (B) the need of the recipient for the services; and (C) the ability of the recipient to pay for the services.

(5) For the purposes of this subsection, the term—

(A) ''institution of higher education'' has the same meaning as such term is defined in section 1001 of title 20;

(B) ''small business'' means a private firm that does not exceed the numerical size standard promulgated by the Small Business Administration under section 632(a) of title 15 for the Standard Industrial Classification (SIC) codes designated by the Secretary of Energy; and

(C) ''start-up business'' means a small business which has been in existence for 5 years or less.

(g) Review of plans

The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) or (e) of this section. Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.

(Pub. L. 94–163, title III, §362, Dec. 22, 1975, 89 Stat. 933; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 101–440, §§3(a), 4(a), (b), Oct. 18, 1990, 104 Stat. 1006–1008; Pub. L. 102–486, title I, §141(b), (c)(1), Oct. 24, 1992, 106 Stat. 2841; Pub. L. 105–244, title I, §102(a)(13)(E), Oct. 7, 1998, 112 Stat. 1620; Pub. L. 105–388, §5(a)(8), Nov. 13, 1998, 112 Stat. 3478; Pub. L. 109–58, title I, §123(a), Aug. 8, 2005, 119 Stat. 616.)

AMENDMENTS

2005—Subsec. (g). Pub. L. 109–58 added subsec. (g).

1998—Subsec. (a)(1). Pub. L. 105–388, §5(a)(8)(A), inserted ''of'' after ''of the implementation''.

Subsec. (d)(12). Pub. L. 105–388, §5(a)(8)(B), substituted ''subsection (f)(2)'' for ''subsection (g)''.

Subsec. (f)(5)(A). Pub. L. 105–244 substituted ''section 1001'' for ''section 1141(a)''.

1992—Subsec. (c)(5). Pub. L. 102–486, §141(c)(1), substituted ''and to turn such vehicle left from a one-way street onto a one-way street at a red light after stopping; and'' for ''; and''.

Subsec. (d)(13) to (17). Pub. L. 102–486, §141(b), added pars. (13) to (16) and redesignated former par. (13) as (17).

1990—Subsec. (c)(6). Pub. L. 101–440, §3(a), added par. (6).

Subsec. (d)(3). Pub. L. 101–440, §4(a)(1), added par. (3) and struck out former par. (3) which read as follows: ''transportation controls;''.

Subsec. (d)(5) to (13). Pub. L. 101–440, §4(a)(3), added pars. (5) to (13) and struck out former par. (5) which read as follows: ''any other appropriate method or programs to conserve and to improve efficiency in the use of energy.''

Subsec. (f). Pub. L. 101–440, §4(b), added subsec. (f).

1978—Subsecs. (a), (b), (e). Pub. L. 95–619 substituted ''Secretary'' for ''Administrator'', meaning Administrator of the Federal Energy Administration, wherever appearing.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–486, title I, §141(c)(2), Oct. 24, 1992, 106 Stat. 2841, provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect January 1, 1995.''

STUDY REGARDING IMPACT OF PERMITTING RIGHT AND LEFT TURNS ON RED LIGHTS

Pub. L. 102–486, title I, §141(d), Oct. 24, 1992, 106 Stat. 2841, provided that:

''(1) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration, in consulta-

tion with State agencies with jurisdiction over traffic safety issues, shall conduct a study on the safety impact of the requirement specified in section 362(c)(5) of the Energy Policy and Conservation Act (42 U.S.C. 6322(c)(5)), particularly with respect to the impact on pedestrian safety.

''(2) REPORT.—The Administrator shall report the findings of the study conducted under paragraph (1) to the Congress and the Secretary not later than 2 years after the date of the enactment of this Act [Oct. 24, 1992].''

§ 6323. Federal assistance to States

(a) Information, technical assistance, and assistance in preparation of reports and development, implementation, or modification of energy conservation plan

Upon request of the Governor of any State, the Secretary shall provide, subject to the availability of personnel and funds, information and technical assistance, including model State laws and proposed regulations relating to energy conservation, and other assistance in—

(1) the preparation of the reports described in section 6322 of this title, and

(2) the development, implementation, or modification of an energy conservation plan of such State submitted under section 6322(b) or (e) of this title.

(b) Financial assistance to assist State in development, implementation, or modification of energy conservation plan; submission of plan to and approval of Secretary; considerations governing approval; amount of assistance

(1) The Secretary may grant Federal financial assistance pursuant to this section for the purpose of assisting such State in the development of any such energy conservation plan or in the implementation or modification of a State energy conservation plan or part thereof which has been submitted to and approved by the Secretary pursuant to this part.

(2) In determining whether to approve a State energy conservation plan submitted under section 6322(b) or (e) of this title, the Secretary—

(A) shall take into account the impact of local economic, climatic, geographic, and other unique conditions and requirements of such State on the opportunity to conserve and to improve efficiency in the use of energy in such State; and

(B) may extend the period of time during which a State energy conservation feasibility report or State energy conservation plan may be submitted if the Secretary determines that participation by the State submitting such report or plan is likely to result in significant progress toward achieving the purposes of this chapter.

No such plan shall be disapproved without notice and an opportunity to present views.

(3) In determining the amount of Federal financial assistance to be provided to any State under this subsection, the Secretary shall consider—

(A) the contribution to energy conservation which can reasonably be expected,

(B) the number of people affected by such plan, and

(C) the consistency of such plan with the purposes of this chapter, and such other factors as the Secretary deems appropriate.

(c) Records

Each recipient of Federal financial assistance under subsection (b) of this section shall keep such records as the Secretary shall require, including records which fully disclose the amount and disposition by each recipient of the proceeds of such assistance, the total cost of the plan, program, projects, measures, or systems for which such assistance was given or used, the source and amount of funds for such plan, program, projects, measures, or systems not supplied by the Secretary, and such other records as the Secretary determines necessary to facilitate an effective audit and performance evaluation. The Secretary and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination, at reasonable times and under reasonable conditions, to any pertinent books, documents, papers, and records of any recipient of Federal assistance under this part.

(d) Assistance as supplementing and not supplanting State and local funds

Each State receiving Federal financial assistance pursuant to this section shall provide reasonable assurance to the Secretary that it has established policies and procedures designed to assure that Federal financial assistance under this part and under part E of this subchapter will be used to supplement, and not to supplant, State and local funds, and to the extent practicable, to increase the amount of such funds that otherwise would be available, in the absence of such Federal financial assistance, for those programs set forth in the State energy conservation plan approved pursuant to subsection (b) of this section.

(e) Energy emergency planning program as prerequisite to assistance

(1) Effective October 1, 1991, to be eligible for Federal financial assistance pursuant to this section, a State shall submit to the Secretary, as a supplement to its energy conservation plan, an energy emergency planning program for an energy supply disruption, as designed by the State consistent with applicable Federal and State law. The contingency plan provided for by the program shall include an implementation strategy or strategies (including regional coordination) for dealing with energy emergencies. The submission of such plan shall be for informational purposes only and without any requirement of approval by the Secretary.

(2) Federal financial assistance made available under this part to a State may be used to develop and conduct the energy emergency planning program requirement referred to in paragraph (1).

(f) State buildings energy efficiency improvements incentive fund

If the Secretary determines that a State has demonstrated a commitment to improving the energy efficiency of buildings within such State, the Secretary may, beginning in fiscal year 1994, provide up to $1,000,000 to such State for deposit into a revolving fund established by such State for the purpose of financing energy efficiency improvements in State and local government

buildings. In making such determination the Secretary shall consider whether—

(1) such State, or a majority of the units of local government with jurisdiction over building energy codes within such State, has adopted codes for energy efficiency in new buildings that are at least as stringent as American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.1–1989 (with respect to commercial buildings) and Council of American Building Officials Model Energy Code, 1992 (with respect to residential buildings);

(2) such State has established a program, including a revolving fund, to finance energy efficiency improvement projects in State and local government facilities and buildings; and

(3) such State has obtained funding from non-Federal sources, including but not limited to, oil overcharge funds, State or local government appropriations, or utility contributions (including rebates) equal to or greater than three times the amount provided by the Secretary under this subsection for deposit into such revolving fund.

(Pub. L. 94–163, title III, §363, Dec. 22, 1975, 89 Stat. 934; Pub. L. 94–385, title IV, §432(b), (c), Aug. 14, 1976, 90 Stat. 1162; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 101–440, §3(b), Oct. 18, 1990, 104 Stat. 1007; Pub. L. 102–486, title I, §141(a)(1), Oct. 24, 1992, 106 Stat. 2840.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(2)(B), (3)(C), was in the original ''this Act'', meaning Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, as amended, known as the Energy Policy and Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

AMENDMENTS

1992—Subsec. (f). Pub. L. 102–486 added subsec. (f).

1990—Subsecs. (d), (e). Pub. L. 101–440 added subsecs. (d) and (e).

1978—Pub. L. 95–619 substituted ''Secretary'' for ''Administrator'', meaning Administrator of the Federal Energy Administration, wherever appearing.

1976—Subsec. (b)(2). Pub. L. 94–385, §432(b), inserted provision requiring notice and opportunity to present views prior to disapproval of plans.

Subsec. (c). Pub. L. 94–385, §432(c), inserted references to plan, measures, or systems wherever appearing and required that examinations be at reasonable times and under reasonable conditions.

§ 6323a. Matching State contributions

For the base State Energy Conservation Program (part D of the Energy Policy and Conservation Act, sections 361 through 366 [42 U.S.C. 6321–6326]), each State will hereafter match in cash or in kind not less than 20 percent of the Federal contribution.

(Pub. L. 98–473, title I, §101(c) [title II], Oct. 12, 1984, 98 Stat. 1837, 1861.)

REFERENCES IN TEXT

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

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1985, as enacted by Pub. L. 98–473, and not as part of the Energy Policy and Conservation Act which comprises this chapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation act:

Pub. L. 98–146, title II, Nov. 4, 1983, 97 Stat. 942.

§ 6324. State energy efficiency goals

Each State energy conservation plan with respect to which assistance is made available under this part on or after August 8, 2005, shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2012 as compared to calendar year 1990, and may contain interim goals.

(Pub. L. 94–163, title III, §364, Dec. 22, 1975, 89 Stat. 935; Pub. L. 95–619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 101–440, §2(a)(1), Oct. 18, 1990, 104 Stat. 1006; Pub. L. 109–58, title I, §123(b), Aug. 8, 2005, 119 Stat. 616.)

AMENDMENTS

2005—Pub. L. 109–58 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''Each State energy conservation plan with respect to which assistance is made available under this part on or after October 1, 1991, shall contain a goal, consisting of an improvement of 10 percent or more in the efficiency of use of energy in the State concerned in the calendar year 2000 as compared to the calendar year 1990, and may contain interim goals.''

1990—Pub. L. 101–440 amended section generally. Prior to amendment, section read as follows: ''Upon the basis of the reports submitted pursuant to this part and such other information as is available, the Secretary shall, at the earliest practicable date, set an energy conservation goal for each State for 1980 and may set interim goals. Such goal or goals shall consist of the maximum reduction in the consumption of energy during any year as a result of the implementation of the State energy conservation plan described in section 6322(b) of this title which is consistent with technological feasibility, financial resources, and economic objectives, by comparison with the projected energy consumption for such State in such year. The Secretary shall specify the assumptions used in the determination of the projected energy consumption in each State, taking into account population trends, economic growth, and the effects of national energy conservation programs.''

1978—Pub. L. 95–619 substituted ''Secretary'' for ''Administrator'', meaning Administrator of the Federal Energy Administration, wherever appearing.

§ 6325. General provisions

(a) Rules

The Secretary may prescribe such rules as may be necessary or appropriate to carry out his authority under this part.

(b) Departmental consultation

In carrying out the provisions of sections 6322 and 6324 of this title and subsection (a) of section 6323 of this title, the Secretary shall consult with appropriate departments and Federal agencies.

(c) Annual report

The Secretary shall, as part of the report required under section 7267 of this title, report to the President and the Congress, and shall furnish copies of such report to the Governor of each State, on the operation of the program under this part. Such report shall include an estimate of the energy conservation achieved, the degree of State participation and achievement, a description of innovative conservation programs undertaken by individual States, and the recommendations of the Secretary, if any, for additional legislation.

(d) Duty of Federal Trade Commission to prevent unfair or deceptive practices or acts relating to implementation of energy measures

The Federal Trade Commission shall (1) cooperate with and assist State agencies which have primary responsibilities for the protection of consumers in activities aimed at preventing unfair and deceptive acts or practices affecting commerce which relate to the implementation of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable-resource energy measures, and (2) undertake its own program, pursuant to the Federal Trade Commission Act [15 U.S.C. 41 et seq.], to prevent unfair or deceptive acts or practices affecting commerce which relate to the implementation of any such measures.

(e) List of energy measures eligible for financial assistance; designation of types and requirements of energy audits

Within 90 days after August 14, 1976, the Secretary shall—

(1) develop, by rule after consultation with the Secretary of Housing and Urban Development, and publish a list of energy conservation measures and renewable-resource energy measures which are eligible (on a national or regional basis) for financial assistance pursuant to section 1701z–8 of title 12 or section 6881 of this title;

(2) designate, by rule, the types of, and requirements for, energy audits.

(f) Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated $125,000,000 for each of fiscal years 2007 through 2012.

(g) State Energy Advisory Board

(1)(A) There is hereby established within the Department of Energy a State Energy Advisory Board (hereafter in this subsection referred to as the ''Board'') which shall consist of at least 18 and not more than 21 members appointed by the Secretary as soon as practicable but no later than September 30, 1991. At least eight of the members of the Board shall be persons who serve as directors of the State agency, or a division of such agency, responsible for developing State energy conservation plans pursuant to section 6322 of this title. At least four members shall be directors of State or local low income weatherization assistance programs. Other members shall be appointed from persons who have experience in energy efficiency or renewable energy programs from the private sector, consumer interest groups, utilities, public utility commissions, educational institutions, financial institutions, local government energy programs, or research institutions. A majority of the members of the Board shall be State employees.

(B)(i) Except as provided in clause (ii), the members of the Board shall serve a term of three years.

(ii) Of the members first appointed to the Board, one-third shall serve a term of one year, one-third shall serve a term of two years, and the remainder shall serve a term of three years, as specified by the Secretary.

(2) The Board shall—

(A) make recommendations to the Assistant Secretary for Conservation and Renewable Energy within the Department of Energy with respect to—

(i) the energy efficiency goals and objectives of the programs carried out under this part, part E of this subchapter, and under part A of title IV of the Energy Conservation and Production Act [42 U.S.C. 6861 et seq.]; and

(ii) programmatic and administrative policies designed to strengthen and improve the programs referred to in clause (i), including actions that should be considered to encourage non-Federal resources (including private resources) to supplement Federal financial assistance;

(B) serve as a liaison between the States and such Department on energy efficiency and renewable energy resource programs; and

(C) encourage transfer of the results of research and development activities carried out by the Federal Government with respect to energy efficiency and renewable energy resource technologies.

(3) The Secretary shall designate one of the members of the Board to serve as its chairman and one to serve as its vice-chairman. The chairman and vice-chairman shall serve in those offices no longer than two years.

(4) The Secretary shall provide the Board with such reasonable services and facilities as may be necessary for the performance of its functions.

(5) The Board shall be nonpartisan.

(6) The Board may adopt administrative rules and procedures and may elect one of its members secretary of the Board.

(7) Consistent with Federal regulations, the Secretary shall reimburse members of the Board for expenses (including travel expenses) necessarily incurred by them in the performance of their duties.

(8) The Board shall meet at least twice a year and shall submit an annual report to the Secretary and the Congress on the activities carried out by the Board in the previous fiscal year, including an accounting of the expenses reimbursed under paragraph (7) with respect to the year for which the report is made and any recommendations it may have for administrative or legislative changes concerning the matters referred to in subparagraphs (A), (B), and (C) of paragraph (2).

(9) The Board shall continue until terminated by law.

(Pub. L. 94–163, title III, § 365, Dec. 22, 1975, 89 Stat. 935; Pub. L. 94–385, title IV, § 432(d), Aug. 14, 1976, 90 Stat. 1162; Pub. L. 95–619, title VI, §§ 621, 691(b)(2), Nov. 9, 1978, 92 Stat. 3283, 3288; Pub. L. 101–440, §§ 5, 8(a), Oct. 18, 1990, 104 Stat. 1009, 1015; Pub. L. 102–486, title I, § 141(a)(2), Oct. 24, 1992, 106 Stat. 2841; Pub. L. 104–66, title I, § 1052(f), Dec. 21, 1995, 109 Stat. 718; Pub. L. 105–388, § 2(a), Nov. 13, 1998, 112 Stat. 3477; Pub. L. 109–58, title I, § 123(c), Aug. 8, 2005, 119 Stat. 617; Pub. L. 110–140, title V, § 531, Dec. 19, 2007, 121 Stat. 1665.)

REFERENCES IN TEXT

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

The Energy Conservation and Production Act, referred to in subsec. (g)(2)(A)(i), is Pub. L. 94–385, Aug. 14, 1976, 90 Stat. 1125, as amended. Part A of title IV of the Act is classified generally to part A (§ 6861 et seq.) of subchapter III of chapter 81 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of this title and Tables.

AMENDMENTS

2007—Subsec. (f). Pub. L. 110–140 substituted ''$125,000,000 for each of fiscal years 2007 through 2012'' for ''$100,000,000 for each of the fiscal years 2006 and 2007 and $125,000,000 for fiscal year 2008''.

2005—Subsec. (f). Pub. L. 109–58 substituted ''$100,000,000 for each of the fiscal years 2006 and 2007 and $125,000,000 for fiscal year 2008'' for ''for fiscal years 1999 through 2003 such sums as may be necessary''.

1998—Subsec. (f). Pub. L. 105–388 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:

''(f)(1) Except as provided in paragraph (2), for the purpose of carrying out this part, there are authorized to be appropriated not to exceed $25,000,000 for fiscal year 1991, $35,000,000 for fiscal year 1992, and $45,000,000 for fiscal year 1993.

''(2) For the purposes of carrying out section 6323(f) of this title, there is authorized to be appropriated for fiscal year 1994 and each fiscal year thereafter such sums as may be necessary, to remain available until expended.''

1995—Subsec. (c). Pub. L. 104–66 substituted '', as part of the report required under section 7267 of this title, report'' for ''report annually'' in first sentence.

1992—Subsec. (f). Pub. L. 102–486 designated existing provisions as par. (1), substituted ''Except as provided in paragraph (2), for the purpose'' for ''For the purpose'', and added par. (2).

1990—Subsec. (f). Pub. L. 101–440, § 8(a), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ''There are authorized to be appropriated for carrying out the provisions of this part (other than section 6327 of this title) $50,000,000 for fiscal year 1976, $50,000,000 for fiscal year 1977, $50,000,000 for fiscal year 1978, and $50,000,000 for fiscal year 1979.''

Subsec. (g). Pub. L. 101–440, § 5, added subsec. (g).

1978—Subsecs. (a) to (c), (e). Pub. L. 95–619, § 691(b)(2), substituted ''Secretary'' for ''Administrator'', meaning Administrator of the Federal Energy Administration, wherever appearing.

Subsec. (f). Pub. L. 95–619, § 621, authorized to be appropriated $50,000,000 for fiscal year 1979.

1976—Subsec. (d). Pub. L. 94–385, § 432(d)(1), (2), added subsec. (d). Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 94–385, § 432(d)(2), added subsec. (e).

Subsec. (f). Pub. L. 94–385, § 432(d)(1), (3), redesignated former subsec. (d) as (f) and inserted ''(other than section 6327 of this title)'' after ''part''.

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.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the 16th item on page 87 identifies a reporting provision which, as subsequently amended, is contained in subsec. (c) of this section and in which the 14th item on page 91 identifies a reporting provision in subsec. (g)(8) of this section), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§ 6326. Definitions

As used in this part—

(1) The term ''appliance'' means any article, such as a room air-conditioner, refrigerator-freezer, or dishwasher, which the Secretary classifies as an appliance for purposes of this part.

(2) The term ''building'' means any structure which includes provision for a heating or cooling system, or both, or for a hot water system.

(3) The term ''energy audit'' means any process which identifies and specifies the energy and cost savings which are likely to be realized through the purchase and installation of particular energy conservation measures or renewable-resource energy measures and which—

(A) is carried out in accordance with rules of the Secretary; and

(B) imposes—

(i) no direct costs, with respect to individuals who are occupants of dwelling units in any State having a supplemental State energy conservation plan approved under section 6327[1] of this title, and

(ii) only reasonable costs, as determined by the Secretary, with respect to any person not described in clause (i).

Rules referred to in subparagraph (A) may include minimum qualifications for, and provisions with respect to conflicts of interest of, persons carrying out such energy audits.

(4) The term ''energy conservation measure'' means a measure which modifies any building, building system, energy consuming device associated with the building, or industrial plant, the construction of which has been completed prior to May 1, 1989, if such measure has been determined by means of an energy audit or by the Secretary, by rule under section 6325(e)(1) of this title, to be likely to maintain or improve the efficiency of energy use and to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as determined by the Secretary) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of—

(A) the useful life of the modification involved, as determined by the Secretary, or

[1] See References in Text note below.

(B) 15 years after the purchase and installation of such measure,

whichever is less. Such term does not include (i) the purchase or installation of any appliance, (ii) any conversion from one fuel or source of energy to another which is of a type which the Secretary, by rule, determines is ineligible on the basis that such type of conversion is inconsistent with national policy with respect to energy conservation or reduction of imports of fuels, or (iii) any measure, or type of measure, which the Secretary determines does not have as its primary purpose an improvement in efficiency of energy use.

(5) The term ''industrial plant'' means any fixed equipment or facility which is used in connection with, or as part of, any process or system for industrial production or output.

(6) The term ''renewable-resource energy measure'' means a measure which modifies any building or industrial plant, the construction of which has been completed prior to August 14, 1976, if such measure has been determined by means of an energy audit or by the Secretary, by rule under section 6325(e)(1) of this title, to—

(A) involve changing, in whole or in part, the fuel or source of the energy used to meet the requirements of such building or plant from a depletable source of energy to a nondepletable source of energy; and

(B) be likely to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as determined by the Secretary) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of—

(i) the useful life of the modification involved, as determined by the Secretary, or

(ii) 25 years after the purchase and installation of such measure,

whichever is less.

Such term does not include the purchase or installation of any appliance.

(7) The term ''public building'' means any building which is open to the public during normal business hours.

(8) The term ''transportation controls'' means any plan, procedure, method, or arrangement, or any system of incentives, disincentives, restrictions, and requirements, which is designed to reduce the amount of energy consumed in transportation, except that the term does not include rationing of gasoline or diesel fuel.

(Pub. L. 94–163, title III, § 366, Dec. 22, 1975, 89 Stat. 935; Pub. L. 94–385, title IV, § 431, Aug. 14, 1976, 90 Stat. 1158; Pub. L. 95–619, title VI, § 691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 101–440, § 2(b), Oct. 18, 1990, 104 Stat. 1006.)

REFERENCES IN TEXT

Section 6327 of this title, referred to in par. (3)(B)(i), was repealed by Pub. L. 101–440, § 4(c)(1), Oct. 18, 1990, 104 Stat. 1009.

AMENDMENTS

1990—Par. (4). Pub. L. 101–440 substituted ''building, building system, energy consuming device associated with the building, or industrial'' for ''building or industrial'', ''May 1, 1989'' for ''August 14, 1976'', and ''maintain or improve the efficiency'' for ''improve the efficiency''.

1978—Pars. (1), (3)(A), (B)(ii), (4), (A), (6), (B), (B)(i). Pub. L. 95–619 substituted ''Secretary'' for ''Administrator'', meaning Administrator of the Federal Energy Administration, wherever appearing.

1976—Pub. L. 94–385 redesignated former pars. (1) and (2) as (7) and (8), respectively, and added pars. (1) to (6).

§ 6327. Repealed. Pub. L. 101–440, § 4(c)(1), Oct. 18, 1990, 104 Stat. 1009

Section, Pub. L. 94–163, title III, § 367, as added Pub. L. 94–385, title IV, § 432(a), Aug. 14, 1976, 90 Stat. 1160; amended Pub. L. 95–91, title III, § 301(a), title VII, §§ 703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 95–619, title VI, §§ 622, 691(b)(2), Nov. 9, 1978, 92 Stat. 3283, 3288, related to supplemental State energy conservation plans.

PART C—INDUSTRIAL ENERGY EFFICIENCY

CODIFICATION

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

PRIOR PROVISIONS

A prior part C, consisting of sections 6341 to 6346, related to voluntary industrial energy conservation, prior to repeal by Pub. L. 99–509, title III, § 3101(b), Oct. 21, 1986, 100 Stat. 1888. This prior part C, which in the original Act had been designated part D and subsequently redesignated part E by Pub. L. 95–619, title IV, § 441(a), Nov. 9, 1978, 92 Stat. 3267, was designated part C of this subchapter for purposes of codification.

§ 6341. Definitions

In this part:

(1) Administrator

The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) Combined heat and power

The term ''combined heat and power system'' means a facility that—

(A) simultaneously and efficiently produces useful thermal energy and electricity; and

(B) recovers not less than 60 percent of the energy value in the fuel (on a higher-heating-value basis) in the form of useful thermal energy and electricity.

(3) Net excess power

The term ''net excess power'' means, for any facility, recoverable waste energy recovered in the form of electricity in quantities exceeding the total consumption of electricity at the specific time of generation on the site at which the facility is located.

(4) Project

The term ''project'' means a recoverable waste energy project or a combined heat and power system project.

(5) Recoverable waste energy

The term ''recoverable waste energy'' means waste energy from which electricity or useful thermal energy may be recovered through modification of an existing facility or addition of a new facility.