

ENERGY CONSERVATION AND PRODUCTION ACT

[Public Law 94–385, as Amended]

[As Amended Through P.L. 113–128, Enacted July 22, 2014]

AN ACT To amend the Federal Energy Administration Act of 1974 to extend the duration of authorities under such Act; to provide an incentive for domestic production; to provide for electric utility rate design initiatives; to provide for energy conservation standards for new buildings; to provide for energy conservation assistance for existing buildings and industrial plants; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Energy Conservation and Production Act”.

【42 U.S.C. 6801 note】

CONTENTS ¹

TITLE I—FEDERAL ENERGY ADMINISTRATION ACT AMENDMENTS AND RELATED MATTERS

PART A—FEDERAL ENERGY ADMINISTRATION ACT AMENDMENTS

- Sec. 101. Short title.
- Sec. 102. Limitation on discretion of Administrator with respect to energy actions.
- Sec. 103. Environmental Protection Agency comment period and notice of waiver.
- Sec. 104. Guidelines for hardship and inequity and hearing at appeals.
- Sec. 105. Requirements for hearing in the geographic area affected by rules and regulations of the Administrator.
- Sec. 106. Limitation on the Administrator’s authority with respect to enforcement of regulations and rulings.
- Sec. 107. Maintaining accounts or records for compliance purposes; and alleviation of small business reporting burdens.
- Sec. 108. Penalties for failure to file information.
- Sec. 109. Reports.
- Sec. 110. Authorizations of appropriations.
- Sec. 111. Collection of information concerning exports of coal or petroleum products.
- Sec. 112. Federal Energy Administration Act extension.
- Sec. 113. Project Independence evaluation system documentation and access.

PART B—PRODUCTION ENHANCEMENT AND OTHER RELATED MATTERS

- Sec. 121. Exemption of stripper well production.
- Sec. 122. Enhancement of domestic production.
- Sec. 123. Construction of refineries by small and independent refiners.
- Sec. 124. Effective date of EPAA amendments.

PART C—OFFICE OF ENERGY INFORMATION AND ANALYSIS

- Sec. 141. Findings and purpose.
- Sec. 142. Office of Energy Information and Analysis.

¹The word “CONTENTS” in the original public law appears in a larger typesize than is represented in the printed version of this compiled statute. See volume 90 Stat. 1125 of the Statutes-At-Large for its actual typesize.

ENERGY CONSERVATION AND PRODUCTION ACT**2****“PART B—OFFICE OF ENERGY INFORMATION AND ANALYSIS**

- “Sec. 51. Establishment of Office of Energy Information and Analysis.
 - “Sec. 52. National Energy Information System.
 - “Sec. 53. Administrative provisions.
 - “Sec. 54. Analytical capability.
 - “Sec. 55. Professional audit review of performance of Office.
 - “Sec. 56. Coordination of energy information activities.
 - “Sec. 57. Reports.
 - “Sec. 58. Energy information in possession of other Federal agencies.
 - “Sec. 59. Congressional access to information in possession of the Office.”.
- Sec. 143. Effective date.

PART D—AMENDMENTS TO OTHER ENERGY-RELATED LAW

- Sec. 161. Appliance program.
- Sec. 162. Energy Resources Council reports.
- Sec. 163. Extension of Energy Resources Council.
- Sec. 164. Development of underground coal mines.

TITLE II—ELECTRIC UTILITIES RATE DESIGN INITIATIVES

- Sec. 201. Findings.
- Sec. 202. Definitions.
- Sec. 203. Electric utility rate design proposals.
- Sec. 204. Rate design innovation and Federal Energy Administration intervention.
- Sec. 205. Grants for offices of consumer services.
- Sec. 206. Reports.
- Sec. 207. State utility regulatory assistance.
- Sec. 208. Authorization of appropriations.

TITLE III—ENERGY CONSERVATION STANDARDS FOR NEW BUILDINGS

- Sec. 301. Short title.
- Sec. 302. Findings and purposes.
- Sec. 303. Definitions.
- Sec. 304. Updating State building energy efficiency codes.
- Sec. 305. Federal building energy efficiency standards.
- Sec. 306. Federal compliance.
- Sec. 307. Support for voluntary building energy codes.
- Sec. 308. Reports.

TITLE IV—ENERGY CONSERVATION AND RENEWABLE-RESOURCE ASSISTANCE FOR EXISTING BUILDINGS

- Sec. 401. Short title.
- Sec. 402. Findings and purpose.

PART A—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

- Sec. 411. Findings and purpose.
- Sec. 412. Definitions.
- Sec. 413. Weatherization program.
- Sec. 414. Financial assistance.
- Sec. 414A. Private sector investments.
- Sec. 414B. Technical transfer grants.
- Sec. 415. Limitations.
- Sec. 416. Monitoring, technical assistance, and evaluation.
- Sec. 417. Administrative provisions.
- Sec. 418. Approval of applications and administration of State programs.
- Sec. 419. Judicial review.
- Sec. 420. Nondiscrimination.
- Sec. 421. Annual report.
- Sec. 422. Authorization of appropriations.

PART B—STATE ENERGY CONSERVATION PLANS

- Sec. 431. Definitions.
- Sec. 432. Supplemental State energy conservation plans.

PART C—NATIONAL ENERGY CONSERVATION AND RENEWABLE-RESOURCE DEMONSTRATION PROGRAM FOR EXISTING DWELLING UNITS

- Sec. 441. Energy conservation and renewable-resource demonstration.

3 ENERGY CONSERVATION AND PRODUCTION ACT Sec. 108

PART D—ENERGY CONSERVATION AND RENEWABLE-RESOURCE OBLIGATION
GUARANTEES

Sec. 451. Program.

PART E—MISCELLANEOUS PROVISIONS

Sec. 461. Exchange of information.

Sec. 462. Report by the Comptroller General.

**TITLE I—FEDERAL ENERGY ADMINISTRATION ACT
AMENDMENTS AND RELATED MATTERS**

PART A—FEDERAL ENERGY ADMINISTRATION ACT AMENDMENTS

SHORT TITLE

SEC. 101. This title may be cited as the “Federal Energy Administration Act Amendments of 1976”.

**LIMITATION ON DISCRETION OF ADMINISTRATOR WITH RESPECT TO
ENERGY ACTIONS**

SEC. 102. **【Added a new subsection (c) to section 5 of the Federal Energy Administration Act of 1974.】**

**ENVIRONMENTAL PROTECTION AGENCY COMMENT PERIOD AND NOTICE
OF WAIVER**

SEC. 103. **【Amends section 7(c) (1) and (2) of the Federal Energy Administration Act of 1974.】**

GUIDELINES FOR HARDSHIP AND INEQUITY AND HEARING AT APPEALS

SEC. 104. **【Amends section 7(i)(1)(D) of the Federal Energy Administration Act of 1974.】**

**REQUIREMENTS FOR HEARING IN THE GEOGRAPHIC AREA AFFECTED BY
RULES AND REGULATIONS OF THE ADMINISTRATOR**

SEC. 105. **【Added a new subparagraph (F) to section 7(i)(1) of the Federal Energy Administration Act of 1974.】**

**LIMITATION ON THE ADMINISTRATOR’S AUTHORITY WITH RESPECT TO
ENFORCEMENT OF REGULATIONS AND RULINGS**

SEC. 106. **【Added a new subsection (k) to section 7 of the Federal Energy Administration Act of 1974.】**

**MAINTAINING ACCOUNTS OR RECORDS FOR COMPLIANCE PURPOSES;
AND ALLEVIATION OF SMALL BUSINESS REPORTING BURDENS**

SEC. 107. **【Added new subsections (g) and (h) to section 13 of the Federal Energy Administration Act of 1974.】**

PENALTIES FOR FAILURE TO FILE INFORMATION

SEC. 108. **【Added a new subsection (i) to section 13 of the Federal Energy Administration Act of 1974.】**

REPORTS

SEC. 109. **Amends section 15 of the Federal Energy Administration Act of 1974.**

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 110. **Amends section 29 of the Federal Energy Administration Act of 1974.**

COLLECTION OF INFORMATION CONCERNING EXPORTS OF COAL OR
PETROLEUM PRODUCTS

SEC. 111. **Added a new subsection (d) to section 25 of the Federal Energy Administration Act of 1974.**

FEDERAL ENERGY ADMINISTRATION ACT EXTENSION

SEC. 112. **Amends section 30 of the Federal Energy Administration Act of 1974.**

PROJECT INDEPENDENCE EVALUATION SYSTEM DOCUMENTATION AND
ACCESS

SEC. 113. **Added a new section 31 to the Federal Energy Administration Act of 1974.**

PART B—PRODUCTION ENHANCEMENT AND OTHER RELATED
MATTERS

EXEMPTION OF STRIPPER WELL PRODUCTION

SEC. 121. **Added a new subsection (i) to section 8 of the Emergency Petroleum Allocation Act of 1973.**

ENHANCEMENT OF DOMESTIC PRODUCTION

SEC. 122. **Amends section 8 of the Emergency Petroleum Allocation Act of 1973.**

CONSTRUCTION OF REFINERIES BY SMALL AND INDEPENDENT
REFINERS

SEC. 123. (a) It is the intent of the Congress that, for the purpose of fostering construction of new refineries by small and independent refiners in the United States, the Administrator of the Federal Energy Administration shall take such action, within his authority under other law consistent with the attainment, to the maximum extent practicable, of the objectives under section 4(b)(1)(D) of the Emergency Petroleum Allocation Act of 1973, as the Administrator determines necessary to insure that rules, regulations, or orders issued by him do not impose unreasonable, unnecessary, or discriminatory barriers to entry for small refiners and independent refiners.

(b) Not later than April 1, 1977, the Administrator shall report to the Congress with respect to actions taken to carry out the policies in subsection (a).

(c) For the purposes of this section the terms “small refiner” and “independent refiner” have the same meaning as such terms have under the Emergency Petroleum Allocation Act of 1973.

[15 U.S.C. 753 note]

EFFECTIVE DATE OF EPAA AMENDMENTS

SEC. 124. The amendments made to section 8 of the Emergency Petroleum Allocation Act by section 122 of this Act shall take effect on the date of enactment of this Act. The amendments made to section 8 of such Act by section 121 of this Act shall take effect on the first day of the first full month which begins after the date of enactment of this Act.

[15 U.S.C. 757 note]

PART C—OFFICE OF ENERGY INFORMATION AND ANALYSIS

FINDINGS AND PURPOSE

SEC. 141. (a) The Congress finds that the public interest requires that decisionmaking, with respect to this Nation’s energy requirements and the sufficiency and availability of energy resources and supplies, be based on adequate, accurate, comparable, coordinated, and credible energy information.

(b) The purpose of this title is to establish within the Federal Energy Administration an Office of Energy Information and Analysis and a National Energy Information System to assure the availability of adequate, comparable, accurate, and credible energy information to the Federal Energy Administration, to other Government agencies responsible for energy-related policy decisions, to the Congress, and to the public.

[15 U.S.C. 790 note]

OFFICE OF ENERGY INFORMATION AND ANALYSIS

SEC. 142. **[Amends the Federal Energy Administration Act of 1974 by inserting “PART A—FEDERAL ENERGY ADMINISTRATION” after the enacting clause and by adding a new part B.]**

[15 U.S.C. 761 note]

EFFECTIVE DATE

SEC. 143. The amendments made by this part C to the Federal Energy Administration Act of 1974 shall take effect 150 days after the date of enactment of this Act, except that section 56(c) of the Federal Energy Administration Act of 1974 (as added by this part) shall take effect on the date of enactment of this Act.

[15 U.S.C. 790 note. 15 U.S.C. 761 note]

PART D—AMENDMENTS TO OTHER ENERGY-RELATED LAW

APPLIANCE PROGRAM

SEC. 161. **[Amends section 325(a) of the Energy Policy and Conservation Act.]**

ENERGY RESOURCES COUNCIL REPORTS

SEC. 162. (a) [Amends section 108(b) of the Energy Reorganization Act of 1974.]

(b) [Amends section 108 of the Energy Reorganization Act of 1974.]

EXTENSION OF ENERGY RESOURCES COUNCIL

SEC. 163. [Amends section 108(e) of the Energy Reorganization Act of 1974.]

DEVELOPMENT OF UNDERGROUND COAL MINES

SEC. 164. [Amends section 102 of the Energy Policy and Conservation Act.]

TITLE II—ELECTRIC UTILITY RATE DESIGN INITIATIVES

FINDINGS

SEC. 201. (a) The Congress finds that improvement in electric utility rate design has great potential for reducing the cost of electric utility services to consumers and current and projected shortages of capital, and for encouraging energy conservation and better use of existing electrical generating facilities.

(b) It is the purpose of this title to require the Federal Energy Administration to develop proposals for improvement of electric utility rate design and transmit such proposals to Congress; to fund electric utility rate demonstration projects; to intervene or participate, upon request, in the proceedings of utility regulatory commissions; and to provide financial assistance to State offices of consumer services to facilitate presentation of consumer interests before such commissions.

[42 U.S.C. 6801]

DEFINITIONS

SEC. 202. As used in this title:

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

(2) The term “electric utility” means any person, State agency, or Federal agency which sells electric energy.

(3) The term “Federal agency” means any agency or instrumentality of the United States.

(4) The term “State agency” means a State, political subdivision thereof, or any agency or instrumentality of either.

(5) The term “State utility regulatory commission” means (A) any utility regulatory commission which is a State agency or (B) the Tennessee Valley Authority.

(6) The term “State” means any State, the District of Columbia, Puerto Rico, and any territory or possession of the United States.

(7) The term “utility regulatory commission” means any State agency or Federal agency which has authority to fix, modify, approve, or disapprove rates for the sale of electric energy by any electric utility (other than by such agency).

【42 U.S.C. 6802】

ELECTRIC UTILITY RATE DESIGN PROPOSALS

SEC. 203. (a) The Secretary shall develop proposals to improve electric utility rate design. Such proposals shall be designed to encourage energy conservation, minimize the need for new electric generating capacity, and minimize costs of electric energy to consumers, and shall include (but not be limited to) proposals which provide for the development and implementation of—

- (1) load management techniques which are cost effective;
- (2) rates which reflect marginal cost of service, or time of use of service, or both;
- (3) ratemaking policies which discourage inefficient use of fuel and encourage economical purchases of fuel; and
- (4) rates (or other regulatory policies) which encourage electric utility system reliability and reliability of major items of electric utility equipment.

(b) The proposals prepared under subsection (a) shall be transmitted to each House of Congress not later than 6 months after the date of enactment of this Act, for review and for such further action as the Congress may direct by law. Such proposals shall be accompanied by an analysis of—

- (1) the projected savings (if any) in consumption of petroleum products, natural gas, electric energy, and other energy resources,
 - (2) the reduction (if any) in the need for new electrical generating capacity, and of the demand for capital by the electric utility industry, and
 - (3) changes (if any) in the cost of electric energy to consumers,
- which are likely to result from the implementation nationally of each of the proposals transmitted under this subsection.

【42 U.S.C. 6803】

RATE DESIGN INNOVATION AND FEDERAL ENERGY ADMINISTRATION INTERVENTION

SEC. 204. The Secretary may—

- (1) fund (A) demonstration projects to improve electric utility load management procedures and (B) regulatory rate reform initiatives,
- (2) on request of a State, a utility regulatory commission, or of any participant in any proceeding before a State utility regulatory commission which relates to electric utility rates or rate design, intervene and participate in such proceeding, and
- (3) on request of any State, utility regulatory commission, or party to any action to obtain judicial review of an administrative proceeding in which the Secretary intervened or participated under paragraph (2), intervene and participate in such action.

【42 U.S.C. 6804】

GRANTS FOR OFFICES OF CONSUMER SERVICES

SEC. 205. (a) The Secretary may make grants to States, or otherwise as provided in subsection (c), under this section to provide for the establishment and operation of offices of consumer services to assist consumers in their presentations before utility regulatory commissions. Any assistance provided under this section shall be provided only for an office of consumer services which is operated independently of any such utility regulatory commission and which is empowered to—

(1) make general factual assessments of the impact of proposed rate changes and other proposed regulatory actions upon all affected consumers;

(2) assist consumers in the presentation of their positions before utility regulatory commissions; and

(3) advocate, on its own behalf, a position which it determines represents the position most advantageous to consumers, taking into account developments in rate design reform.

(b) Grants pursuant to subsection (a) of this section shall be made only to States which furnish such assurances as the Secretary may require that funds made available under such section will be in addition to, and not in substitution for, funds made available to offices of consumer services from other sources.

(c) Assistance may be provided under this section to an office of consumer services established by the Tennessee Valley Authority, if such office is operated independently of the Tennessee Valley Authority.

【42 U.S.C. 6805】

REPORTS

SEC. 206. The Secretary shall include in each annual report submitted under section 657 of the Department of Energy Organization Act a statement with respect to activities conducted under this title and recommendations as to the need for and types of further Federal legislation.

【42 U.S.C. 6806】

STATE UTILITY REGULATORY ASSISTANCE

SEC. 207. (a) The Secretary may make grants to State utility regulatory commissions and nonregulated electric utilities (as defined in the Public Utility Regulatory Policies Act of 1978) to carry out duties and responsibilities under titles I and III, and section 210, of the Public Utility Regulatory Policies Act of 1978. No grant may be made under this section to any Federal agency.

(b) Any requirements established by the Secretary with respect to grants under this section may be only such requirements as are necessary to assure that such grants are expended solely to carry out duties and responsibilities referred to in subsection (a) or such as are otherwise required by law.

(c) No grant may be made under this section unless an application for such grant is submitted to the Secretary in such form and manner as the Secretary may require. The Secretary may not ap-

prove an application of a State utility regulatory commission or nonregulated electric utility unless such commission or nonregulated electric utility assures the Secretary that funds made available under this section will be in addition to, and not in substitution for, funds made available to such commission or nonregulated electric utility from other governmental sources.

(d) The funds appropriated for purposes of this section shall be apportioned among the States in such manner that grants made under this section in each State shall not exceed the lesser of—

(1) the amount determined by dividing equally among all States the total amount available under this section for such grants, or

(2) the amount which the Secretary is authorized to provide pursuant to subsections (b) and (c) of this section for such State.

【42 U.S.C. 6807】

AUTHORIZATION OF APPROPRIATIONS

SEC. 208. There are authorized to be appropriated—

(1) not to exceed \$40,000,000 for each of the fiscal years 1979 and 1980 to carry out section 207 (relating to State utility regulatory assistance);

(2) not to exceed \$10,000,000 for each of the fiscal years 1979 and 1980 to carry out section 205 (relating to State offices of consumer services); and

(3) not to exceed \$8,000,000 for the fiscal year 1979 and \$10,000,000 for the fiscal year 1980 to carry out section 204(1)(B) (relating to innovative rate structures).

【42 U.S.C. 6808】

TITLE III—ENERGY CONSERVATION STANDARDS FOR NEW BUILDINGS

SHORT TITLE

SEC. 301. This title may be cited as the “Energy Conservation Standards for New Buildings Act of 1976”.

【42 U.S.C. 6831 note】

FINDINGS AND PURPOSES

SEC. 302. (a) The Congress finds that—

(1) large amounts of fuel and energy are consumed unnecessarily each year in heating, cooling, ventilating, and providing domestic hot water for newly constructed residential and commercial buildings because such buildings lack adequate energy conservation features;

(2) Federal voluntary performance standards for newly constructed buildings can prevent such waste of energy, which the Nation can no longer afford in view of its current and anticipated energy shortage;

(3) the failure to provide adequate energy conservation measures in newly constructed buildings increases long-term operating costs that may affect adversely the repayment of,

and security for, loans made, insured, or guaranteed by Federal agencies or made by federally insured or regulated instrumentalities; and

(4) State and local building codes or similar controls can provide an existing means by which to assure, in coordination with other building requirements and with a minimum of Federal interference in State and local transactions, that newly constructed buildings contain adequate energy conservation features.

(b) The purposes of this title, therefore, are to—

(1) redirect Federal policies and practices to assure that reasonable energy conservation features will be incorporated into new commercial and residential buildings receiving Federal financial assistance;

(2) provide for the development and implementation, as soon as practicable, of voluntary performance standards for new residential and commercial buildings which are designed to achieve the maximum practicable improvements in energy efficiency and increases in the use of nondepletable sources of energy; and

(3) encourage States and local governments to adopt and enforce such standards through their existing building codes and other construction control mechanisms, or to apply them through a special approval process.

[42 U.S.C. 6831]

DEFINITIONS

SEC. 303. As used in this title:

(1) The term “Administrator” means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this title.

(2) The term “building” means any structure to be constructed which includes provision for a heating or cooling system, or both, or for a hot water system.

(3) The term “building code” means a legal instrument which is in effect in a State or unit of general purpose local government, the provisions of which must be adhered to if a building is to be considered to be in conformance with law and suitable for occupancy and use.

(4) The term “commercial building” means any building other than a residential building, including any building developed for industrial or public purposes.

(5) The term “Federal agency” means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, including the United States Postal Service, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

(6) The term “Federal building” means any building to be constructed by, or for the use of, any Federal agency. Such

term shall include buildings built for the purpose of being leased by a Federal agency, and privatized military housing.

(7) The term “Federal financial assistance” means (A) any form of loan, grant, guarantee, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistance (other than general or special revenue sharing or formula grants made to States) approved by any Federal officer or agency; or (B) any loan made or purchased by any bank, savings and loan association, or similar institution subject to regulation by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration.

(8) The term “National Institute of Building Sciences” means the institute established by section 809 of the Housing and Community Development Act of 1974.

(9) The term “residential building” means any structure which is constructed and developed for residential occupancy.

(10) The term “Secretary” means the Secretary of Housing and Urban Development.

(11) The term “State” includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory and possession of the United States.

(12) The term “unit of general purpose local government” means any city, county, town, municipality, or other political subdivision of a State (or any combination thereof), which has a building code or similar authority over a particular geographic area.

(13) The term “Federal building energy standards” means energy consumption objectives to be met without specification of the methods, materials, or equipment to be employed in achieving those objectives, but including statements of the requirements, criteria, and evaluation methods to be used, and any necessary commentary.

(14) The term “voluntary building energy code” means a building energy code developed and updated through a consensus process among interested persons, such as that used by the Council of American Building Officials; the American Society of Heating, Refrigerating, and Air-Conditioning Engineers; or other appropriate organizations.

(15) The term “CABO” means the Council of American Building Officials.

(16) The term “ASHRAE” means the American Society of Heating, Refrigerating, and Air-Conditioning Engineers.

[42 U.S.C. 6832]

SEC. 304. UPDATING STATE BUILDING ENERGY EFFICIENCY CODES.

(a) CONSIDERATION AND DETERMINATION RESPECTING RESIDENTIAL BUILDING ENERGY CODES.—(1) Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, each State shall certify to the Secretary that it has reviewed the provisions of its residential building code regarding energy efficiency and made a determination as to whether it is appropriate for such

State to revise such residential building code provisions to meet or exceed CABO Model Energy Code, 1992.

- (2) The determination referred to in paragraph (1) shall be—
- (A) made after public notice and hearing;
 - (B) in writing;
 - (C) based upon findings included in such determination and upon the evidence presented at the hearing; and
 - (D) available to the public.

(3) Each State may, to the extent consistent with otherwise applicable State law, revise the provisions of its residential building code regarding energy efficiency to meet or exceed CABO Model Energy Code, 1992, or may decline to make such revisions.

(4) If a State makes a determination under paragraph (1) that it is not appropriate for such State to revise its residential building code, such State shall submit to the Secretary, in writing, the reasons for such determination, and such statement shall be available to the public.

(5)(A) Whenever CABO Model Energy Code, 1992, (or any successor of such code) is revised, the Secretary shall, not later than 12 months after such revision, determine whether such revision would improve energy efficiency in residential buildings. The Secretary shall publish notice of such determination in the Federal Register.

(B) If the Secretary makes an affirmative determination under subparagraph (A), each State shall, not later than 2 years after the date of the publication of such determination, certify that it has reviewed the provisions of its residential building code regarding energy efficiency and made a determination as to whether it is appropriate for such State to revise such residential building code provisions to meet or exceed the revised code for which the Secretary made such determination.

(C) Paragraphs (2), (3), and (4) shall apply to any determination made under subparagraph (B).

(b) CERTIFICATION OF COMMERCIAL BUILDING ENERGY CODE UPDATES.—(1) Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, each State shall certify to the Secretary that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency. Such certification shall include a demonstration that such State's code provisions meet or exceed the requirements of ASHRAE Standard 90.1-1989.

(2)(A) Whenever the provisions of ASHRAE Standard 90.1-1989 (or any successor standard) regarding energy efficiency in commercial buildings are revised, the Secretary shall, not later than 12 months after the date of such revision, determine whether such revision will improve energy efficiency in commercial buildings. The Secretary shall publish a notice of such determination in the Federal Register.

(B)(i) If the Secretary makes an affirmative determination under subparagraph (A), each State shall, not later than 2 years after the date of the publication of such determination, certify that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency in accordance with the revised standard for which such determination was made. Such certifi-

ation shall include a demonstration that the provisions of such State's commercial building code regarding energy efficiency meet or exceed such revised standard.

(ii) If the Secretary makes a determination under subparagraph (A) that such revised standard will not improve energy efficiency in commercial buildings, State commercial building code provisions regarding energy efficiency shall meet or exceed ASHRAE Standard 90.1-1989, or if such standard has been revised, the last revised standard for which the Secretary has made an affirmative determination under subparagraph (A).

(c) EXTENSIONS.—The Secretary shall permit extensions of the deadlines for the certification requirements under subsections (a) and (b) if a State can demonstrate that it has made a good faith effort to comply with such requirements and that it has made significant progress in doing so.

(d) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States to implement the requirements of this section, and to improve and implement State residential and commercial building energy efficiency codes or to otherwise promote the design and construction of energy efficient buildings.

(e) AVAILABILITY OF INCENTIVE FUNDING.—(1) The Secretary shall provide incentive funding to States to implement the requirements of this section, and to improve and implement State residential and commercial building energy efficiency codes, including increasing and verifying compliance with such codes. In determining whether, and in what amount, to provide incentive funding under this subsection, the Secretary shall consider the actions proposed by the State to implement the requirements of this section, to improve and implement residential and commercial building energy efficiency codes, and to promote building energy efficiency through the use of such codes.

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

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

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

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

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

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

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

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

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

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

[42 U.S.C. 6833]

SEC. 305. FEDERAL BUILDING ENERGY EFFICIENCY STANDARDS.

(a)(1) IN GENERAL.—Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, the Secretary, after consulting with appropriate Federal agencies, CABO, ASHRAE, the National Association of Home Builders, the Illuminating Engineering Society, the American Institute of Architects, the National Conference of the States on Building Codes and Standards, and other appropriate persons, shall establish, by rule, Federal building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. Such standards shall become effective no later than 1 year after such rule is issued.

(2) The standards established under paragraph (1) shall—

(A) contain energy saving and renewable energy specifications that meet or exceed the energy saving and renewable energy specifications of the 2004 International Energy Conservation Code (in the case of residential buildings) or ASHRAE Standard 90.1–2004 (in the case of commercial buildings);

(B) to the extent practicable, use the same format as the appropriate voluntary building energy code; and

(C) consider, in consultation with the Environmental Protection Agency and other Federal agencies, and where appropriate contain, measures with regard to radon and other indoor air pollutants.

(3)(A) Not later than 1 year after the date of enactment of this paragraph, the Secretary shall establish, by rule, revised Federal building energy efficiency performance standards that require that—

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

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

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

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

(iii)² if lifecycle cost-effective, as compared to other reasonably available technologies, not less than 30 percent of the hot water demand for each new Federal building or Federal building undergoing a major renovation be met through the installation and use of solar hot water heaters.

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

(C) In the budget request of the Federal agency for each fiscal year and each report submitted by the Federal agency under section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)), the head of each Federal agency shall include—

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

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

(D) Not later than 1 year after the date of enactment of the Energy Independence and Security Act of 2007, the Secretary shall establish, by rule, revised Federal building energy efficiency performance standards that require that:

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

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

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

(II) Upon petition by an agency subject to this subparagraph, the Secretary may adjust the applicable nu-

²Margin of clause (iii) of paragraph (3)(A) so in law.

meric requirement under subclause (I) downward with respect to a specific building, if the head of the agency designing the building certifies in writing that meeting such requirement would be technically impracticable in light of the agency's specified functional needs for that building and the Secretary concurs with the agency's conclusion. This subclause shall not apply to the General Services Administration.

(III) Sustainable design principles shall be applied to the siting, design, and construction of such buildings. Not later than 90 days after the date of enactment of the Energy Independence and Security Act of 2007, the Secretary, after reviewing the findings of the Federal Director under section 436(h) of that Act, in consultation with the Administrator of General Services, and in consultation with the Secretary of Defense for considerations relating to those facilities under the custody and control of the Department of Defense, shall identify a certification system and level for green buildings that the Secretary determines to be the most likely to encourage a comprehensive and environmentally-sound approach to certification of green buildings. The identification of the certification system and level shall be based on a review of the Federal Director's findings under section 436(h) of the Energy Independence and Security Act of 2007 and the criteria specified in clause (iii), shall identify the highest level the Secretary determines is appropriate above the minimum level required for certification under the system selected, and shall achieve results at least comparable to the system used by and highest level referenced by the General Services Administration as of the date of enactment of the Energy Independence and Security Act of 2007. Within 90 days of the completion of each study required by clause (iv), the Secretary, in consultation with the Administrator of General Services, and in consultation with the Secretary of Defense for considerations relating to those facilities under the custody and control of the Department of Defense, shall review and update the certification system and level, taking into account the conclusions of such study.

(ii) In establishing criteria for identifying major renovations that are subject to the requirements of this subparagraph, the Secretary shall take into account the scope, degree, and types of renovations that are likely to provide significant opportunities for substantial improvements in energy efficiency.

(iii) In identifying the green building certification system and level, the Secretary shall take into consideration—

(I) the ability and availability of assessors and auditors to independently verify the criteria and measurement of metrics at the scale necessary to implement this subparagraph;

(II) the ability of the applicable certification organization to collect and reflect public comment;

- (III) the ability of the standard to be developed and revised through a consensus-based process;
- (IV) an evaluation of the robustness of the criteria for a high-performance green building, which shall give credit for promoting—
- (aa) efficient and sustainable use of water, energy, and other natural resources;
 - (bb) use of renewable energy sources;
 - (cc) improved indoor environmental quality through enhanced indoor air quality, thermal comfort, acoustics, day lighting, pollutant source control, and use of low-emission materials and building system controls; and
 - (dd) such other criteria as the Secretary determines to be appropriate; and
- (V) national recognition within the building industry.
- (iv) At least once every 5 years, and in accordance with section 436 of the Energy Independence and Security Act of 2007, the Administrator of General Services shall conduct a study to evaluate and compare available third-party green building certification systems and levels, taking into account the criteria listed in clause (iii).
- (v) The Secretary may by rule allow Federal agencies to develop internal certification processes, using certified professionals, in lieu of certification by the certification entity identified under clause (i)(III). The Secretary shall include in any such rule guidelines to ensure that the certification process results in buildings meeting the applicable certification system and level identified under clause (i)(III). An agency employing an internal certification process must continue to obtain external certification by the certification entity identified under clause (i)(III) for at least 5 percent of the total number of buildings certified annually by the agency.
- (vi) With respect to privatized military housing, the Secretary of Defense, after consultation with the Secretary may, through rulemaking, develop alternative criteria to those established by subclauses (I) and (III) of clause (i) that achieve an equivalent result in terms of energy savings, sustainable design, and green building performance.
- (vii) In addition to any use of water conservation technologies otherwise required by this section, water conservation technologies shall be applied to the extent that the technologies are life-cycle cost-effective.
- (b) **REPORT ON COMPARATIVE STANDARDS.**—The Secretary shall identify and describe, in the report required under section 308, the basis for any substantive difference between the Federal building energy standards established under this section (including differences in treatment of energy efficiency and renewable energy) and the appropriate voluntary building energy code.
- (c) **PERIODIC REVIEW.**—The Secretary shall periodically, but not less than once every 5 years, review the Federal building energy standards established under this section and shall, if significant energy savings would result, upgrade such standards to include all

new energy efficiency and renewable energy measures that are technologically feasible and economically justified.

(d) INTERIM STANDARDS.—Interim energy performance standards for new Federal buildings issued by the Secretary under this title as it existed before the date of the enactment of the Energy Policy Act of 1992 shall remain in effect until the standards established under subsection (a) become effective.

【42 U.S.C. 6834】

SEC. 306. FEDERAL COMPLIANCE.

(a) PROCEDURES.—(1) The head of each Federal agency shall adopt procedures necessary to assure that new Federal buildings meet or exceed the Federal building energy standards established under section 305.

(2) The Federal building energy standards established under section 305 shall apply to new buildings under the jurisdiction of the Architect of the Capitol. The Architect shall adopt procedures necessary to assure that such buildings meet or exceed such standards.

(b) CONSTRUCTION OF NEW BUILDINGS.—The head of a Federal agency may expend Federal funds for the construction of a new Federal building only if the building meets or exceeds the appropriate Federal building energy standards established under section 305.

【42 U.S.C. 6835】

SEC. 307. SUPPORT FOR VOLUNTARY BUILDING ENERGY CODES.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of the Energy Policy Act of 1992, the Secretary, after consulting with the Secretary of Housing and Urban Development, the Secretary of Veterans Affairs, other appropriate Federal agencies, CABO, ASHRAE, the National Conference of States on Building Codes and Standards, and any other appropriate building codes and standards organization, shall support the upgrading of voluntary building energy codes for new residential and commercial buildings. Such support shall include—

(1) a compilation of data and other information regarding building energy efficiency standards and codes in the possession of the Federal Government, State and local governments, and industry organizations;

(2) assistance in improving the technical basis for such standards and codes;

(3) assistance in determining the cost-effectiveness and the technical feasibility of the energy efficiency measures included in such standards and codes; and

(4) assistance in identifying appropriate measures with regard to radon and other indoor air pollutants.

(b) REVIEW.—The Secretary shall periodically review the technical and economic basis of voluntary building energy codes and, based upon ongoing research activities—

(1) recommend amendments to such codes including measures with regard to radon and other indoor air pollutants;

(2) seek adoption of all technologically feasible and economically justified energy efficiency measures; and

(3) otherwise participate in any industry process for review and modification of such codes.

【42 U.S.C. 6836】

SEC. 308. REPORTS.

The Secretary, in consultation with the Secretary of Housing and Urban Development, the Secretary of Veterans Affairs, and other appropriate Federal agencies, shall report annually to the Congress on activities conducted pursuant to this title. Such report shall include—

(1) recommendations made under section 307(b) regarding the prevailing voluntary building energy codes;

(2) a State-by-State summary of actions taken under this title; and

(3) recommendations to the Congress with respect to opportunities to further promote building energy efficiency and otherwise carry out the purposes of this title.

【42 U.S.C. 6837】

TITLE IV—ENERGY CONSERVATION AND RENEWABLE-RESOURCE ASSISTANCE FOR EXISTING BUILDINGS

SHORT TITLE

SEC. 401. This title may be cited as the “Energy Conservation in Existing Buildings Act of 1976”.

【42 U.S.C. 6851 note】

FINDINGS AND PURPOSES

SEC. 402. (a) The Congress finds that—

(1) the fastest, most cost-effective, and most environmentally sound way to prevent future energy shortages in the United States, while reducing the Nation’s dependence on imported energy supplies, is to encourage and facilitate, through major programs, the implementation of energy conservation and renewable-resource energy measures with respect to dwelling units, nonresidential buildings, and industrial plants;

(2) current efforts to encourage and facilitate such measures are inadequate as a consequence of—

(A) a lack of adequate and available financing for such measures, particularly with respect to individual consumers and owners of small businesses;

(B) a shortage of reliable and impartial information and advisory services pertaining to practicable energy conservation measures and renewable-resource energy measures and the cost savings that are likely if they are implemented in such units, buildings, and plants; and

(C) the absence of organized programs which, if they existed, would enable consumers, especially individuals and owners of small businesses, to undertake such measures easily and with confidence in their economic value;

(3) major programs of financial incentives and assistance for energy conservation measures and renewable-resource en-

ergy measures in dwelling units, nonresidential buildings, and industrial plants would—

(A) significantly reduce the Nation's demand for energy and the need for petroleum imports;

(B) cushion the adverse impact of the high price of energy supplies on consumers, particularly elderly and handicapped low-income persons who cannot afford to make the modifications necessary to reduce their residential energy use; and

(C) increase, directly and indirectly, job opportunities and national economic output;

(4) the primary responsibility for the implementation of such major programs should be lodged with the governments of the States; the diversity of conditions among the various States and regions of the Nation is sufficiently great that a wholly federally administered program would not be as effective as one which is tailored to meet local requirements and to respond to local opportunities; the State should be allowed flexibility within which to fashion such programs, subject to general Federal guidelines and monitoring sufficient to protect the financial investments of consumers and the financial interest of the United States and to insure that the measures undertaken in fact result in significant energy and cost savings which would probably not otherwise occur;

(5) to the extent that direct Federal administration is more economical and efficient, direct Federal financial incentives and assistance should be extended through existing and proven Federal programs rather than through new programs that would necessitate new and separate administrative bureaucracies; and

(6) such programs should be designed and administered to supplement, and not to supplant or in any way conflict with, State energy conservation programs under part C of title III of the Energy Policy and Conservation Act; the emergency energy conservation program carried out by community action agencies pursuant to section 222(a)(12) of the Economic Opportunity Act of 1964; and other forms of assistance and encouragement for energy conservation.

(b) It is, therefore, the purpose of this title to encourage and facilitate the implementation of energy conservation measures and renewable-resource energy measures in dwelling units, nonresidential buildings, and industrial plants, through—

(1) supplemental State energy conservation plans; and

(2) Federal financial incentives and assistance.

【42 U.S.C. 6851】

PART A—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

FINDINGS AND PURPOSE

SEC. 411. (a) The Congress finds that—

(1) a fast, cost-effective, and environmentally sound way to prevent future energy shortages in the United States while reducing the Nation's dependence on imported energy supplies,

is to encourage and facilitate, through major programs, the implementation of energy conservation and renewable-resource energy measures with respect to dwelling units;

(2) existing efforts to encourage and facilitate such measures are inadequate because—

(A) many dwellings owned or occupied by low-income persons are energy inefficient;

(B) low-income persons can least afford to make the modifications necessary to provide for efficient energy equipment in such dwellings and otherwise to improve the energy efficiency of such dwellings;

(3) weatherization of such dwellings would lower shelter costs in dwellings owned or occupied by low-income persons as well as save energy and reduce future energy capacity requirements; and

(4) States, through Community Action Agencies established under the Economic Opportunity Act of 1964 and units of general purpose local government, should be encouraged, with Federal financial and technical assistance, to develop and support coordinated weatherization programs designed to alleviate the adverse effects of energy costs on such low-income persons, to supplement other Federal programs serving such low-income persons, and to increase energy efficiency.

(b) It is, therefore, the purpose of this part to develop and implement a weatherization assistance program to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total residential energy expenditures, and improve their health and safety, especially low-income persons who are particularly vulnerable such as the elderly, the handicapped, and children.

[42 U.S.C. 6861]

DEFINITIONS

SEC. 412. As used in this part:

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

(2) The term “Director” means the Director of the Community Services Administration.

(3) The term “elderly” means any individual who is 60 years of age or older.

(4) The term “Governor” means the chief executive officer of a State (including the Mayor of the District of Columbia).

(5) The term “handicapped person” means any individual (A) who is an individual with a disability, as defined in section 7 of the Rehabilitation Act of 1973, (B) who is under a disability as defined in section 614(a)(3)(A) or 223(d)(1) of the Social Security Act or in section 102(7) of the Developmental Disabilities Services and Facilities Construction Act, or (C) who is receiving benefits under chapter 11 or 15 of title 38, United States Code.

(6) The terms “Indian”, “Indian tribe”, and “tribal organization” have the meanings prescribed for such terms by section 102 of the Older Americans Act of 1965.

(7) The term “low-income” means that income in relation to family size which (A) is at or below 200 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, except that the Administrator may establish a higher level if the Administrator, after consulting with the Secretary of Agriculture and the Director of the Community Services Administration, determines that such a higher level is necessary to carry out the purposes of this part and is consistent with the eligibility criteria established for the weatherization program under section 222(a)(12) of the Economic Opportunity Act of 1964, (B) is the basis on which cash assistance payments have been paid during the preceding 12-month period under titles IV and XVI of the Social Security Act or applicable State or local law, or (C) if a State elects, is the basis for eligibility for assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621), provided that such basis is at least 200 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.

(8) STATE.—The term “State” means—

- (A) a State;
- (B) the District of Columbia;
- (C) the Commonwealth of Puerto Rico; and
- (D) any other territory or possession of the United States.

(9) The term “weatherization materials” means—

- (A) caulking and weatherstripping of doors and windows;
- (B) furnace efficiency modifications, including, but not limited to—
 - (i) replacement burners, furnaces, or boilers or any combination thereof;
 - (ii) devices for minimizing energy loss through heating system, chimney, or venting devices; and
 - (iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;
- (C) clock thermostats;
- (D) ceiling, attic, wall, floor, and duct insulation;
- (E) water heater insulation;
- (F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective window and door materials;
- (G) cooling efficiency modifications, including, but not limited to, replacement air-conditioners, ventilation equipment, screening, window films, and shading devices;
- (H) solar thermal water heaters;
- (I) wood-heating appliances; and
- (J) such other insulating or energy conserving devices or technologies as the Secretary may determine, after consulting with the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Director of the Community Services Administration.

【42 U.S.C. 6862】

WEATHERIZATION PROGRAM

SEC. 413. (a) The Administrator shall develop and conduct, in accordance with the purpose and provisions of this part, a weatherization program. In developing and conducting such program, the Secretary may, in accordance with this part and regulations promulgated under this part, make grants (1) to States, and (2) in accordance with the provisions of subsection (d), to Indian tribal organizations to serve Native Americans. Such grants shall be made for the purpose of providing financial assistance with regard to projects designed to provide for the weatherization of dwelling units, particularly those where elderly or handicapped low-income persons reside, occupied by low-income families.

(b)(1) The Secretary, after consultation with the Director, the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, the Secretary of Labor, and the heads of such other Federal departments and agencies as the Secretary deems appropriate, shall develop and publish in the Federal Register for public comment, not later than 60 days after the date of enactment of this part, proposed regulations to carry out the provisions of this part. The Secretary shall take into consideration comments submitted regarding such proposed regulations and shall promulgate and publish final regulations for such purpose not later than 90 days after the date of such enactment. The development of regulations under this part shall be fully coordinated with the Director.

(2) The regulations promulgated pursuant to this section shall include provisions—

(A) prescribing, in coordination with the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, and the Director of the National Bureau of Standards in the Department of Commerce, for use in various climatic, structural, and human need settings, standards for weatherization materials, energy conservation techniques, and balanced combinations thereof, which are designed to achieve a balance of a healthful dwelling environment and maximum practicable energy conservation;

(B) that provide guidance to the States in the implementation of this part, including guidance designed to ensure that a State establishes (i) procedures that provide protection under paragraph (5) to tenants paying for energy as a portion of their rent, and (ii) a process for monitoring compliance with its obligations pursuant to this part; and

(C) that secure the Federal investment made under this part and address the issues of eviction from and sale of property receiving weatherization materials under this part.

(3) The Secretary, in coordination with the Secretaries and Director described in paragraph (2)(A) and with the Director of the Community Services Administration and the Secretary of Agriculture, shall develop and publish in the Federal Register for public comment, not later than 60 days after the date of enactment of this paragraph, proposed amendments to the regulations prescribed under paragraph (1). Such amendments shall provide that the standards described in paragraph (2)(A) shall include a set of pro-

cedures to be applied to each dwelling unit to determine the optimum set of cost-effective measures, within the cost guidelines set for the program, to be installed in such dwelling unit. Such standards shall, in order to achieve such optimum savings of energy, take into consideration the following factors—

- (A) the cost of the weatherization material;
- (B) variation in climate; and
- (C) the value of energy saved by the application of the weatherization material.

Such standards shall be utilized by the Secretary in carrying out this part, the Secretary of Agriculture in carrying out the weatherization program under section 504(c) of the Housing Act of 1949, and the Director of the Community Services Administration in carrying out weatherization programs under section 222(a)(12) of the Economic Opportunity Act of 1964. The Secretary shall take into consideration comments submitted regarding such proposed amendment and shall promulgate and publish final amended regulations not later than 120 days after the date of enactment of this paragraph.

(4) In carrying out paragraphs (2)(A) and (3), the Secretary shall establish the standards and procedures described in such paragraphs so that weatherization efforts being carried out under this part and under programs described in the fourth sentence of paragraph (3) will accomplish uniform results among the States in any area with a similar climatic condition.

(5) In any case in which a dwelling consists of a rental unit or rental units, the State, in the implementation of this part, shall ensure that—

(A) the benefits of weatherization assistance in connection with such rental units, including units where the tenants pay for their energy through their rent, will accrue primarily to the low-income tenants residing in such units;

(B) for a reasonable period of time after weatherization work has been completed on a dwelling containing a unit occupied by an eligible household, the tenants in that unit (including households paying for their energy through their rent) will not be subjected to rent increases unless those increases are demonstrably related to matters other than the weatherization work performed;

(C) the enforcement of subparagraph (B) is provided through procedures established by the State by which tenants may file complaints and owners, in response to such complaints, shall demonstrate that the rent increase concerned is related to matters other than the weatherization work performed; and

(D) no undue or excessive enhancement will occur to the value of such dwelling units.

(6) As a condition of having assistance provided under this part with respect to multifamily buildings, a State may require financial participation from the owners of such buildings.

(c) If a State does not, within 90 days after the date on which final regulations are promulgated under this section, submit an application to the Secretary which meets the requirements set forth in section 414, any unit of general purpose local government of suf-

efficient size (as determined by the Secretary), or a community action agency carrying out programs under title II of the Economic Opportunity Act of 1964, may, in lieu of such State, submit an application (meeting such requirements and subject to all other provisions of this part) for carrying out projects under this part within the geographical area which is subject to the jurisdiction of such government or is served by such agency. A State may, in accordance with regulations promulgated under this part, submit an amended application.

(d)(1) Notwithstanding any other provision of this part, in any State in which the Secretary determines (after having taken into account the amount of funds made available to the State to carry out the purposes of this part) that the low-income members of an Indian tribe are not receiving benefits under this part that are equivalent to the assistance provided to other low-income persons in such State under this part, and if he further determines that the members of such tribe would be better served by means of a grant made directly to provide such assistance, he shall reserve from sums that would otherwise be allocated to such State under this part not less than 100 percent, nor more than 150 percent, of an amount which bears the same ratio to the State's allocation for the fiscal year involved as the population of all low-income Indians for whom a determination under this subsection has been made bears to the population of all low-income persons in such State.

(2) The sums reserved by the Secretary on the basis of his determination under this subsection shall be granted to the tribal organization serving the individuals for whom such a determination has been made, or, where there is no tribal organization, to such other entity as he determines has the capacity to provide services pursuant to this part.

(3) In order for a tribal organization or other entity to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary an application meeting the requirements set forth in section 414.

(e) Notwithstanding any other provision of law, the Secretary may transfer to the Director sums appropriated under this part to be utilized in order to carry out programs, under section 222(a)(12) of the Economic Opportunity Act of 1964, which further the purpose of this part.

【42 U.S.C. 6863】

FINANCIAL ASSISTANCE

SEC. 414. (a) The Secretary shall provide financial assistance, from sums appropriated for any fiscal year under this part, only upon annual application. Each such application shall describe the estimated number and characteristics of the low-income persons and the number of dwelling units to be assisted and the criteria and methods to be used by the applicant in providing weatherization assistance to such persons. The application shall also contain such other information (including information needed for evaluation purposes) and assurances as may be required (1) in the regulations promulgated pursuant to section 413 and (2) to carry out this section. The Secretary shall allocate financial assistance to each

State on the basis of the relative need for weatherization assistance among low-income persons throughout the States, taking into account the following factors:

- (A) The number of dwelling units to be weatherized.
 - (B) The climatic conditions in the State respecting energy conservation, which may include consideration of annual degree days.
 - (C) The type of weatherization work to be done in the various settings.
 - (D) Such other factors as the Secretary may determine necessary, such as the cost of heating and cooling, in order to carry out the purpose and provisions of this part.
- (b) The Secretary shall not provide financial assistance under this part unless the applicant has provided reasonable assurances that it has—
- (1) established a policy advisory council which (A) has special qualifications and sensitivity with respect to solving the problems of low-income persons (including the weatherization and energy-conservation problems of such persons), (B) is broadly representative of organizations and agencies which are providing services to such persons in the State or geographical area in question, and (C) is responsible for advising the responsible official or agency administering the allocation of financial assistance in such State or area with respect to the development and implementation of such weatherization assistance program;
 - (2) established priorities to govern the provision of weatherization assistance to low-income persons, including methods to provide priority to elderly and handicapped low-income persons, and such priority as the applicant determines is appropriate for single-family or other high-energy-consuming dwelling units;
 - (3)³ established policies and procedures designed to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State or local funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out the purpose of this part, including plans and procedures (A) for securing, to the maximum extent practicable, the services of volunteers and training participants and public service employment workers, pursuant to title I of the Workforce Investment Act of 1998, to work under the supervision of qualified supervisors and foremen, (B) for using Federal financial assistance under this part to increase the portion of low-income weatherization assistance that the State obtains from non-Federal sources, including private sources, and (C) for complying with the limitations set forth in section 415; and

[Note: Section 512(c) of Public Law 113–128 provides for an amendment to strike and insert text in section 414(b)(3). Section

³For version of law for section 414(b)(3) as amended by section 512(k) of Public Law 113–128, see note below.

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 414(b)(3) (as amended) reads as follows:】

(3) established policies and procedures designed to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State or local funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out the purpose of this part, including plans and procedures (A) for securing, to the maximum extent practicable, the services of volunteers and training participants and public service employment workers, pursuant to title I of the Workforce Innovation and Opportunity Act, to work under the supervision of qualified supervisors and foremen, (B) for using Federal financial assistance under this part to increase the portion of low-income weatherization assistance that the State obtains from non-Federal sources, including private sources, and (C) for complying with the limitations set forth in section 415; and

(4) selected on the basis of public comment received during a public hearing conducted pursuant to section 415(b)(1), and other appropriate findings, community action agencies or other public or nonprofit entities to undertake the weatherization activities authorized by this title: Provided, Such selection shall be based on the agency’s experience and performance in weatherization or housing renovation activities, experience in assisting low-income persons in the area to be served, and the capacity to undertake a timely and effective weatherization program: Provided further, That in making such selection preference shall be given to any community action agency or other public or nonprofit entity which has, or is currently administering, an effective program under this title or under title II of the Economic Opportunity Act of 1964.

(c) Effective with fiscal year 1991, and annually thereafter, the Secretary shall update the population, eligible households, climatic, residential energy use, and all other data used in allocating the funds under this part among the States pursuant to subsection (a).

【42 U.S.C. 6864】

SEC. 414A. PRIVATE SECTOR INVESTMENTS.

(a) IN GENERAL.—The Secretary shall, to the extent funds are made available for such purpose, provide financial assistance to entities receiving funding from the Federal Government or from a State through a weatherization assistance program under section 413 or section 414 for the development and initial implementation of partnerships, agreements, or other arrangements with utilities, private sector interests, or other institutions, under which non-Federal financial assistance would be made available to support pro-

grams which install energy efficiency improvements in low-income housing.

(b) USE OF FUNDS.—Financial assistance provided under this section may be used for—

(1) the negotiation of such partnerships, agreements and other arrangements;

(2) the presentation of arguments before State or local agencies;

(3) expert advice on the development of such partnerships, agreements, and other arrangements; or

(4) other activities reasonably associated with the development and initial implementation of such arrangements.

(c) CONDITIONS.—(1) Financial assistance provided under this section to entities other than States shall, to the extent practicable, coincide with the timing of financial assistance provided to such entities under section 413 or section 414.

(2) Not less than 80 percent of amounts provided under this section shall be provided to entities other than States.

(3) A recipient of financial assistance under this section shall have up to three years to complete projects undertaken with such assistance.

【42 U.S.C. 6864a】

SEC. 414B. TECHNICAL TRANSFER GRANTS.

(a) IN GENERAL.—The Secretary may, to the extent funds are made available, provide financial assistance to entities receiving funding from the Federal Government or from a State through a weatherization assistance program under section 413 or section 414 for—

(1) evaluating technical and management measures which increase program and/or private entity performance in weatherizing low-income housing;

(2) producing technical information for use by persons involved in weatherizing low-income housing;

(3) exchanging information; and

(4) conducting training programs for persons involved in weatherizing low-income housing.

(b) CONDITIONS.—(1) Not less than 50 percent of amounts provided under this section shall be awarded to entities other than States.

(2) A recipient of financial assistance under this section may contract with nonprofit entities to carry out all or part of the activities for which such financial assistance is provided.

【42 U.S.C. 6864b】

LIMITATIONS

SEC. 415. (a)(1) Not more than an amount equal to 10 percent of any grant made by the Secretary under this part may be used for administrative purposes in carrying out duties under this part, except that not more than one-half of such amount may be used by any State for such purposes, and a State may provide in the plan adopted pursuant to subsection (b) for recipients of grants of less than \$350,000 to use up to an additional 5 percent of such grant

for administration if the State has determined that such recipient requires such additional amount to implement effectively the administrative requirements established by the Secretary pursuant to this part.

(2) The Secretary shall establish energy audit procedures and techniques which (i) meet standards established by the Secretary after consultation with the State Energy Advisory Board established under section 365(g) of the Energy Policy and Conservation Act, (ii) establish priorities for selection of weatherization measures based on their cost and contribution to energy efficiency, (iii) measure the energy requirement of individual dwellings and the rate of return of the total conservation investment in a dwelling, and (iv) account for interaction among energy efficiency measures.

(b) The Secretary shall insure that financial assistance provided under this part will—

(1) be allocated within the State or area in accordance with a published State or area plan, which is adopted by such State after notice and a public hearing, describing the proposed funding distributions and recipients;

(2) be allocated, pursuant to such State or area plan, to community action agencies carrying out programs under title II of the Economic Opportunity Act of 1964 or to other appropriate and qualified public or nonprofit entities in such State or area so that—

(A) funds will be allocated on the basis of the relative need for weatherization assistance among the low-income persons within such State or area, taking into account appropriate climatic and energy conservation factors; and

(B) due consideration will be given to the results of periodic evaluations of the projects carried out under this part in light of available information regarding the current and anticipated energy and weatherization needs of low-income persons within the State; and

(3) be terminated or discontinued during the application period only in accordance with policies and procedures consistent with the policies and procedures set forth in section 418.

(c)(1) Except as provided in paragraphs (3) and (4), the expenditure of financial assistance provided under this part for labor, weatherization materials, and related matters shall not exceed an average of \$6,500 per dwelling unit weatherized in that State. Labor, weatherization materials, and related matter includes, but is not limited to—

(A) the appropriate portion of the cost of tools and equipment used to install weatherization materials for a dwelling unit;

(B) the cost of transporting labor, tools, and materials to a dwelling unit;

(C) the cost of having onsite supervisory personnel;

(D) the cost of making incidental repairs to a dwelling unit if such repairs are necessary to make the installation of weatherization materials effective, and⁴

(E) the cost of making heating and cooling modifications, including replacement⁵

(2) Dwelling units partially weatherized under this part or under other Federal programs during the period September 30, 1975, through September 30, 1994, may receive further financial assistance for weatherization under this part.

(3) Beginning with fiscal year 2000, the dwelling unit averages provided in paragraphs (1) and (4) shall be adjusted annually by increasing the average amount by an amount equal to—

(A) the average amount for the previous fiscal year, multiplied by

(B) the lesser of (i) the percentage increase in the Consumer Price Index (all items, United States city average) for the most recent calendar year completed before the beginning of the fiscal year for which the determination is being made, or (ii) three percent.

(4) The expenditure of financial assistance provided under this part for labor, weatherization materials, and related matters for a renewable energy system shall not exceed an average of \$3,000 per dwelling unit.

(5)(A) The Secretary shall by regulations—

(i) establish the criteria which are to be used in prescribing performance and quality standards under paragraph (6)(A)(ii) or in specifying any form of renewable energy under paragraph (6)(A)(i)(I); and

(ii) establish a procedure under which a manufacturer of an item may request the Secretary to certify that the item will be treated, for purposes of this paragraph, as a renewable energy system.

(B) The Secretary shall make a final determination with respect to any request filed under subparagraph (A)(ii) within 1 year after the filing of the request, together with any information required to be filed with such request under subparagraph (A)(ii).

(C) Each month the Secretary shall publish a report of any request under subparagraph (A)(ii) which has been denied during the preceding month and the reasons for the denial.

(D) The Secretary shall not specify any form of renewable energy under paragraph (6)(A)(i)(I) unless the Secretary determines that—

(i) there will be a reduction in oil or natural gas consumption as a result of such specification;

(ii) such specification will not result in an increased use of any item which is known to be, or reasonably suspected to be, environmentally hazardous or a threat to public health or safety; and

⁴So in law. Section 601(b)(3)(D) of P.L. 106-469 (114 Stat. 2940) amended this subparagraph by "striking the period and inserting "; and". Should probably have inserted "; and".

⁵Margin so in law. Section 601(b)(3) of P.L. 106-469 (114 Stat. 2940) added this subparagraph. Should probably end with a period.

(iii) available Federal subsidies do not make such specification unnecessary or inappropriate (in the light of the most advantageous allocation of economic resources).

(6) In this subsection—

(A) the term “renewable energy system” means a system which—

(i) when installed in connection with a dwelling, transmits or uses—

(I) solar energy, energy derived from the geothermal deposits, energy derived from biomass, or any other form of renewable energy which the Secretary specifies by regulations, for the purpose of heating or cooling such dwelling or providing hot water or electricity for use within such dwelling; or

(II) wind energy for nonbusiness residential purposes;

(ii) meets the performance and quality standards (if any) which have been prescribed by the Secretary by regulations;

(iii) in the case of a combustion rated system, has a thermal efficiency rating of at least 75 percent; and

(iv) in the case of a solar system, has a thermal efficiency rating of at least 15 percent; and

(B) the term “biomass” means any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees, wood and wood wastes and residues, plants (including aquatic plants), grasses, residues, fibers, and animal wastes, municipal wastes, and other waste materials.

(d) Beginning with fiscal year 1992, the Secretary may allocate funds appropriated pursuant to section 422(b)⁶ to provide supplementary financial assistance to those States which the Secretary determines have achieved the best performance during the previous fiscal year in achieving the purposes of this part. In making this determination, the Secretary shall—

(1) consult with the State Energy Advisory Board established under section 365(g) of the Energy Policy and Conservation Act; and

(2) give priority to those States which, during such previous fiscal year, obtained a significant portion of income from non-Federal sources for their weatherization programs or increased significantly the portion of low-income weatherization assistance that the State obtained from non-Federal sources.

(e)(1)(A) Beginning with fiscal year 1992, the Secretary may allocate, from funds appropriated pursuant to section 422(b)⁷, among the States an equal amount for each State not to exceed \$100,000 per State. Each State shall make available amounts received under this subsection to provide supplementary financial assistance to recipients of grants under this part that have achieved the best per-

⁶Section 3 of P.L. 105-388 (112 Stat. 3477) amended section 422 of the Energy Conservation and Production Act to eliminate, subsection (b), which provided a separate authorization for this section 415.

⁷Section 3 of P.L. 105-388 (112 Stat. 3477) amended section 422 of the Energy Conservation and Production Act to eliminate subsection (b), which provided a separate authorization for this section 415.

formance during the previous fiscal year in advancing the purposes of this part.

(B) None of the funds made available under this subsection may be used by any State for administrative purposes.

(2) The Secretary shall, after consulting with the State Energy Advisory Board referred to in subsection (d)(1), prescribe guidelines to be used by each State in making available supplementary financial assistance under this subsection, with a priority being given to subgrantees that, by law or through administrative or other executive action, provided non-Federal resources (including private resources) to supplement Federal financial assistance under this part during the previous fiscal year.

【42 U.S.C. 6865】

MONITORING, TECHNICAL ASSISTANCE, AND EVALUATION

SEC. 416. The Secretary, in coordination with the Director, shall monitor and evaluate the operation of projects receiving financial assistance under this part through methods provided for in section 417(a), through onsite inspections, or through other means, in order to assure the effective provision of weatherization assistance for the dwelling units of low-income persons. The Secretary shall also carry out periodic evaluations of the program authorized by this part and projects receiving financial assistance under this part. The Secretary may provide technical assistance to any such project, directly and through persons and entities with a demonstrated capacity in developing and implementing appropriate technology for enhancing the effectiveness of the provision of weatherization assistance to the dwelling units of low-income persons, utilizing in any fiscal year not to exceed up to 20 percent of the sums appropriated for such year under this part.

【42 U.S.C. 6866】

ADMINISTRATIVE PROVISIONS

SEC. 417. (a) The Secretary, in consultation with the Director, by general or special orders, may require any recipient of financial assistance under this part to provide, in such form as he may prescribe, such reports or answers in writing to specific questions, surveys, or questionnaires as may be necessary to enable the Secretary and the Director to carry out their functions under this part.

(b) Each person responsible for the administration of a weatherization assistance project receiving financial assistance under this part shall keep such records as the Administrator may prescribe in order to assure an effective financial audit and performance evaluation of such project.

(c) The Secretary, the Director (with respect to community action agencies), and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, information, and records of any project receiving financial assistance under this part that are pertinent to the financial assistance received under this part.

(d) Payments under this part may be made in installments and in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

【42 U.S.C. 6867】

APPROVAL OF APPLICATIONS AND ADMINISTRATION OF STATE
PROGRAMS

SEC. 418. (a) The Secretary shall not finally disapprove any application submitted under this part, or any amendment thereto, without first affording the State (or unit of general purpose local government or community action agency under section 413(c), as appropriate) in question, as well as other interested parties, reasonable notice and an opportunity for a public hearing. The Administrator may consolidate into a single hearing the consideration of more than one such application for a particular fiscal year to carry out projects within a particular State. Whenever the Secretary, after reasonable notice and an opportunity for a public hearing, finds that there is a failure to comply substantially with the provisions of this part or regulations promulgated under this part, he shall notify the agency or institution involved and other interested parties that such State (or unit of general purpose local government or agency, as appropriate) will no longer be eligible to participate in the program under this part until the Secretary is satisfied that there is no longer any such failure to comply.

(b) Reasonable notice under this section shall include a written notice of intention to act adversely (including a statement of the reasons therefor) and a reasonable period of time within which to submit corrective amendments to the application, or to propose corrective action.

【42 U.S.C. 6868】

JUDICIAL REVIEW

SEC. 419. (a) If any applicant is dissatisfied with the Secretary's final action with respect to the application submitted by it under section 414 or with a final action under section 418, such applicant may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which the State involved is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Administrator, if supported by substantial evidence, shall be conclusive. The court may, for good cause shown, remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action. The Secretary shall certify to the court the record of any such further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the

United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

[42 U.S.C. 6869]

NONDISCRIMINATION

SEC. 420. (a) No person in the United States shall, on the ground of race, color, national origin, or sex, or on the ground of any other factor specified in any Federal law prohibiting discrimination, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, project, or activity supported in whole or in part with financial assistance under this part.

(b) Whenever the Secretary determines that a recipient of financial assistance under this part has failed to comply with subsection (a) or any applicable regulation, he shall notify the recipient thereof in order to secure compliance. If, within a reasonable period of time thereafter, such recipient fails to comply, the Secretary shall—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the power and functions provided by title VI of the Civil Rights Act of 1964 and any other applicable Federal nondiscrimination law; or

(3) take such other action as may be authorized by law.

[42 U.S.C. 6870]

ANNUAL REPORT

SEC. 421. The Secretary and (with respect to the operation and effectiveness of activities carried out through community action agencies) the Director shall each submit, on or before March 31, 1977, and annually thereafter, a report to the Congress and the President describing the weatherization assistance program carried out under this part or any other provision of law, including the results of the periodic evaluations and monitoring activities required by section 416. Such report shall include information and data furnished by each State on the average costs incurred in weatherization of individual dwelling units, the average size of the dwellings being weatherized, and the average income of households receiving assistance under this part.

[42 U.S.C. 6871]

AUTHORIZATION OF APPROPRIATIONS

SEC. 422. For the purpose of carrying out the weatherization program under this part, there are authorized to be appropriated—

- (1) \$750,000,000 for fiscal year 2008;
- (2) \$900,000,000 for fiscal year 2009;
- (3) \$1,050,000,000 for fiscal year 2010;
- (4) \$1,200,000,000 for fiscal year 2011; and
- (5) \$1,400,000,000 for fiscal year 2012..⁸

⁸So in law. See amendment made by section 411(a) of Public Law 110-140 (Enacted December 19, 2007).

【42 U.S.C. 6872】

PART B—STATE ENERGY CONSERVATION PLANS

DEFINITIONS

SEC. 431. 【Amends section 366 of the Energy Policy and Conservation Act.】

SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS

SEC. 432. (a) 【Amends part C of the title 3 of the Energy Policy and Conservation Act, which appears in this compilation, by adding a new section 367.】

PART C—NATIONAL ENERGY CONSERVATION AND RENEWABLE-RESOURCE DEMONSTRATION PROGRAM FOR EXISTING DWELLING UNITS

ENERGY CONSERVATION AND RENEWABLE-RESOURCE DEMONSTRATION

SEC. 441. 【Amends title V of the Housing and Urban Development Act of 1970.】

PART D—ENERGY CONSERVATION AND RENEWABLE-RESOURCE OBLIGATION GUARANTEES

PROGRAM

SEC. 451. (a)(1) The Administrator may, in accordance with this section and such rules as he shall prescribe after consultation with the Secretary of the Treasury, guarantee and issue commitments to guarantee the payment of the outstanding principal amount of any loan, note, bond, or other obligation evidencing indebtedness, if—

(A) such obligation is entered into or issued by any person or by any State, political subdivision of a State, or agency and instrumentality of either a State or political subdivision thereof; and

(B) the purpose of entering into or issuing such obligation is the financing of any energy conservation measure or renewable-resource energy measure which is to be installed or otherwise implemented in any building or industrial plant owned or operated by the person or State, political subdivision of a State, or agency or instrumentality of either a State or political subdivision thereof, (i) which enters into or issues such obligation, or (ii) to which such measure is leased.

(2) No guarantee or commitment to guarantee may be issued under this subsection with respect to any obligation—

(A) which is a general obligation of a State; or

(B) which is entered into or issued for the purpose of financing any energy conservation measure or renewable-resource energy measure which is to be installed or otherwise implemented in a residential building containing 2 or fewer dwelling units.

(3) Before prescribing rules pursuant to this subsection, the Administrator shall consult with the Administrator of the Small

Business Administration in order to formulate procedures which would assist small business concerns in obtaining guarantees and commitments to guarantee under this section.

(b) No obligation may be guaranteed, and no commitment to guarantee an obligation may be issued, under subsection (a), unless the Administrator finds that the measure which is to be financed by such obligation—

(1) has been identified by an energy audit to be an energy conservation measure or a renewable-resource energy measure; or

(2) is included on a list of energy conservation measures and renewable-resource energy measures which the Administrator publishes under section 365(e)(1) of the Energy Policy and Conservation Act.

Before issuing a guarantee under subsection (a), the Administrator may require that an energy audit be conducted with respect to an energy conservation measure or a renewable-resource energy measure which is on a list described in paragraph (2) and which is to be financed by the obligation to be guaranteed under this section. The amount of any obligation which may be guaranteed under subsection (a) may include the cost of an energy audit.

(c)(1) The Administrator shall limit the availability of a guarantee otherwise authorized by subsection (a) to obligations entered into by or issued by borrowers who can demonstrate that financing is not otherwise available on reasonable terms and conditions to allow the measure to be financed.

(2) No obligation may be guaranteed by the Administrator under subsection (a) unless the Administrator finds—

(A) there is a reasonable prospect for the repayment of such obligation; and

(B) in the case of an obligation issued by a person, such obligation constitutes a general obligation of such person for such guarantee.

(3) The term of any guarantee issued under subsection (a) may not exceed 25 years.

(4) The aggregate outstanding principal amount which may be guaranteed under subsection (a) at any one time with respect to obligations entered into or issued by any borrower may not exceed \$5,000,000.

(d) The original principal amount guaranteed under subsection (a) may not exceed 90 percent of the cost of the energy conservation measure or the renewable-resource energy measure financed by the obligation guaranteed under such subsection; except that such amount may not exceed 25 percent of the fair market value of the building or industrial plant being modified by such energy conservation measure or renewable-resource energy measure. No guarantee issued, and no commitment to guarantee, which is issued under subsection (a) shall be terminated, canceled, or otherwise revoked except in accordance with reasonable terms and conditions prescribed by the Administrator, after consultation with the Secretary of the Treasury, and contained in the written guarantee or commitment to guarantee. The full faith and credit of the United States is pledged to the payment of all guarantees made under subsection (a). Any such guarantee made by the Administrator shall

be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation except for fraud or material misrepresentation on the part of such holder.

(e)(1) No guarantee and no commitment to guarantee may be issued under subsection (a) unless the Administrator obtains any information reasonably requested and such assurances as are in his judgment (after consultation with the Secretary of the Treasury) reasonable to protect the interests of the United States and to assure that such guarantee or commitment to guarantee is consistent with and will further the purpose of this title. The Administrator shall require that records be kept and made available to the Administrator or the Comptroller General, or any of their duly authorized representatives, in such detail and form as are determined necessary to facilitate (A) an effective financial audit of the energy conservation measure or renewable-resource energy measure investment involved, and (B) an adequate evaluation of the effectiveness of this section. The Administrator and the Comptroller General, or any of their duly authorized representatives, shall have access to pertinent books, documents, papers, and records of any recipient of Federal assistance under this section.

(2) The Administrator may collect a fee from any borrower with respect to whose obligation a guarantee or commitment to guarantee is issued under subsection (a); except that the Administrator may waive any such fee with respect to any such borrower or class of borrowers. Fees shall be designed to recover the estimated administrative expenses incurred under this part; except that the total of the fees charged any such borrower may not exceed (A) one percent of the amount of the guarantee, or (B) one-half percent of the amount of the commitment to guarantee, whichever is greater. Any amount collected under this paragraph shall be deposited in the miscellaneous receipts of the Treasury.

(f)(1) If there is a default by the obligor in any payment of principal due under an obligation guaranteed under subsection (a), and if such default continues for 30 days, the holder of such obligation or his agent has the right to demand payment by the Administrator of the unpaid principal of such obligation, consistent with the terms of the guarantee of such obligation. Such payment may be demanded within such period as may be specified in the guarantee or related agreements, which period shall expire not later than 90 days from the date of such default. If demand occurs within such specified period, then not later than 60 days from the date of such demand, the Administrator shall pay to such holder the unpaid principal of such obligation, consistent with the terms of the guarantee of such obligation; except that (A) the Administrator shall not be required to make any such payment if he finds, prior to the expiration of the 60-day period beginning on the date on which the demand is made, that there was no default by the obligor in the payment of principal or that such default has been remedied, and (B) no such holder shall receive payment or be entitled to retain payment in a total amount which together with any other recovery (including any recovery based upon any security interest) exceeds the actual loss of principal by such holder.

(2) If the Administrator makes payment to a holder under paragraph (1), the Administrator shall thereupon—

(A) have all of the rights granted to him by law or agreement with the obligor; and

(B) be subrogated to all of the rights which were granted such holder, by law, assignment, or security agreement applicable to the guaranteed obligation.

(3) The Administrator, may, in his discretion, take possession of, complete, recondition, reconstruct, renovate, repair, maintain, operate, remove, charter, rent, sell, or otherwise dispose of any property or other interests obtained by him pursuant to this subsection. The terms of any such sale or other disposition shall be as approved by the Administrator.

(4) If there is a default by the obligor in any payment due under an obligation guaranteed under subsection (a), the Administrator shall take such action against such obligor or any other persons as is, in his discretion, necessary or appropriate to protect the interests of the United States. Such an action may be brought in the name of the United States or in the name of the holder of such obligation. Such holder shall make available to the Administrator all records and evidence necessary to prosecute any such suit. The Administrator may, in his discretion, accept a conveyance of property in full or partial satisfaction of any sums owed to him. If the Administrator receives, through the sale of property, an amount greater than his cost and the amount paid to the holder under paragraph (1), he shall pay such excess to the obligor.

(g)(1) The aggregate outstanding principal amount of obligations which may be guaranteed under this section may not at any one time exceed \$2,000,000,000. No guarantee or commitment to guarantee may be issued under subsection (a) after September 30, 1979.

(2) There is authorized to be appropriated for the payment of amounts to be paid under subsection (f), not to exceed \$60,000,000. Any amount appropriated pursuant to this paragraph shall remain available until expended.

(3) There is authorized to be appropriated to carry out the provisions of this part, including administrative costs, but not for the payment of amounts to be paid under subsection (f)—

(A) for the fiscal year ending September 30, 1977, not to exceed \$1,836,000; and

(B) for the fiscal year ending September 30, 1978, not to exceed \$4,950,000.

(h) All laborers and mechanics employed in construction, alteration, or repair which is financed by an obligation guaranteed under subsection (a) shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Administrator shall not guarantee any obligations under subsection (a) without first obtaining adequate assurance that these labor standards will be maintained during such construction, alteration, or repair. The Secretary of Labor shall, with respect to the labor standards in this subsection, have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of title 40, United States Code.

(i) As used in this part:

(1) The term “Administrator” means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part.

(2) The term “Comptroller General” means the Comptroller General of the United States.

(3) The terms “energy audit”, “energy conservation measure”, “renewable-resource energy measure”, “building”, and “industrial plant” have the meanings prescribed for such terms in section 366 of the Federal Energy Policy and Conservation Act.

[42 U.S.C. 6881]

PART E—MISCELLANEOUS PROVISIONS

EXCHANGE OF INFORMATION

SEC. 461. The Administrator shall (through conferences, publications, and other appropriate means) encourage and facilitate the exchange of information among the States with respect to energy conservation and increased use of nondepletable energy sources.

[42 U.S.C. 6891]

REPORT BY THE COMPTROLLER GENERAL

SEC. 462. (a) For each fiscal year ending before October 1, 1979, the Comptroller General shall report to the Congress on the activities of the Administrator and the Secretary under this title and any amendments to other statutes made by this title. The provisions of section 12 of the Federal Energy Administration Act of 1974 (relating to access by the Comptroller General to books, documents, papers, statistics, data, records, and information in the possession of the Administrator or of recipients of Federal funds) shall apply to data which relate to such activities.

(b) Each report submitted by the Comptroller General under subsection (a) shall include—

(1) an accounting, by State, of expenditures of Federal funds under each program authorized by this title or by amendments made by this title;

(2) an estimate of the energy savings which have resulted thereby;

(3) a thorough evaluation of the effectiveness of the programs authorized by this title or by amendments made by this title in achieving the energy conservation or renewable resource potential available in the sectors and regions affected by such programs;

(4) a review of the extent and effectiveness of compliance monitoring of programs established by this title or by amendments made by this title and any evidence as to the occurrence of fraud with respect to such programs; and

(5) the recommendations of the Comptroller General with respect to (A) improvements in the administration of programs authorized by this title or by amendments made by this title,

and (B) additional legislation, if any, which is needed to achieve the purposes of this title.

(c) As used in this part:

(1) The term “Administrator” means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part.

(2) The term “Comptroller General” means the Comptroller General of the United States.

(3) The term “Secretary” means the Secretary of Housing and Urban Development.

[42 U.S.C. 6892]