

(e) Availability of incentive funding

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

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

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

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

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

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

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

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

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

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

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

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

PRIOR PROVISIONS

A prior section 6833, Pub. L. 94-385, title III, §304, Aug. 14, 1976, 90 Stat. 1146; Pub. L. 95-91, title III, §§301(a), 304(a), title VII, §§703, 707, 709(e)(1), Aug. 4, 1977, 91 Stat. 577, 580, 606, 608; Pub. L. 96-399, title III, §326(a)-(c), Oct. 8, 1980, 94 Stat. 1649; Pub. L. 97-35, title

X, §1041(a), (c), Aug. 13, 1981, 95 Stat. 621; Pub. L. 100-418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433, related to development and promulgation of energy conservation voluntary performance standards for new commercial and residential buildings, prior to repeal by Pub. L. 102-486, title I, §101(a)(2), Oct. 24, 1992, 106 Stat. 2783.

AMENDMENTS

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

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

§ 6834. Federal building energy efficiency standards**(a) In general**

(1) Not later than 2 years after October 24, 1992, the Secretary, after consulting with appropriate Federal agencies, CABO, ASHRAE, the National Association of Home Builders, the Illuminating Engineering Society, the American Institute of Architects, the National Conference of the States on Building Codes and Standards, and other appropriate persons, shall establish, by rule, Federal building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. Such standards shall become effective no later than 1 year after such rule is issued.

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

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

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

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

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

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

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

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

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

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

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

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

- (i) a list of all new Federal buildings owned, operated, or controlled by the Federal agency; and
- (ii) a statement specifying whether the Federal buildings meet or exceed the revised standards established under this paragraph.

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

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

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

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

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

(III) Sustainable design principles shall be applied to the siting, design, and construction of such buildings. Not later than 90 days after December 19, 2007, the Secretary, after reviewing the findings of the Federal Director under section 17092(h) of this title, 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 17092(h) of this title 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 December 19, 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 17092 of this title, 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) Omitted

(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 subchapter as it existed before October 24, 1992, shall remain in effect until the standards established under subsection (a) of this section become effective.

(Pub. L. 94-385, title III, § 305, as added Pub. L. 102-486, title I, § 101(a)(2), Oct. 24, 1992, 106 Stat. 2784; amended Pub. L. 109-58, title I, § 109, Aug. 8, 2005, 119 Stat. 614; Pub. L. 110-140, title IV, § 433(a), title V, § 523, Dec. 19, 2007, 121 Stat. 1612, 1662.)

CODIFICATION

Subsec. (b) of this section, which required the Secretary to identify and describe, in the annual report required under section 6837 of this title, the basis for any substantive difference between the Federal building en-

ergy standards established under this section and the appropriate voluntary building energy code, was omitted because of termination of the annual report. See Codification note set out under section 6837 of this title.

PRIOR PROVISIONS

A prior section 6834, Pub. L. 94-385, title III, § 305, Aug. 14, 1976, 90 Stat. 1147, related to availability or approval of Federal financial assistance for new construction, prior to repeal by Pub. L. 97-35, title X, § 1041(b), Aug. 13, 1981, 95 Stat. 621.

AMENDMENTS

2007—Subsec. (a)(3)(A)(iii). Pub. L. 110-140, § 523, added cl. (iii).

Subsec. (a)(3)(D). Pub. L. 110-140, § 433(a), added subpar. (D).

2005—Subsec. (a)(2)(A). Pub. L. 109-58, § 109(1), substituted “the 2004 International Energy Conservation Code (in the case of residential buildings) or ASHRAE Standard 90.1-2004” for “CABO Model Energy Code, 1992 (in the case of residential buildings) or ASHRAE Standard 90.1-1989”.

Subsec. (a)(3). Pub. L. 109-58, § 109(2), added par. (3).

EFFECTIVE DATE OF 2007 AMENDMENT

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

REVISION OF FEDERAL ACQUISITION REGULATION;
ISSUANCE OF GUIDANCE

Pub. L. 110-140, title IV, § 433(c), (d), Dec. 19, 2007, 121 Stat. 1614, provided that:

“(c) REVISION OF FEDERAL ACQUISITION REGULATION.—Not later than 2 years after the date of the enactment of this Act [Dec. 19, 2007], the Federal Acquisition Regulation shall be revised to require Federal officers and employees to comply with this section [amending this section and section 6832 of this title] and the amendments made by this section in the acquisition, construction, or major renovation of any facility. The members of the Federal Acquisition Regulatory Council (established under section 25 of the Office of Federal Procurement Policy Act (former) 41 U.S.C. 421) [see 41 U.S.C. 1302] shall consult with the Federal Director and the Commercial Director before promulgating regulations to carry out this subsection.

“(d) GUIDANCE.—Not later than 90 days after the date of promulgation of the revised regulations under subsection (c), the Administrator for Federal Procurement Policy shall issue guidance to all Federal procurement executives providing direction and instructions to renegotiate the design of proposed facilities and major renovations for existing facilities to incorporate improvements that are consistent with this section.”

[For definitions of “Federal Director” and “Commercial Director” as used in section 433(c) of Pub. L. 110-140, set out above, see section 17061 of this title.]

§ 6835. 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 6834 of this title.

(2) The Federal building energy standards established under section 6834 of this title 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