

Act, and amendments made thereby and of extending such activities to a broader range of income groups than are being assisted under this Act and such amendments.

(Pub. L. 95-619, title II, §254, Nov. 9, 1978, 92 Stat. 3237.)

#### REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 95-619, Nov. 9, 1978, 92 Stat. 3206, as amended, known as the National Energy Conservation Policy Act. For complete classification of this Act to the Code, see Short Title note set out under section 8201 of this title and Tables.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section relating to the requirement that the President report annually to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the last item on page 40 of House Document No. 103-7.

#### PART C—RESIDENTIAL ENERGY EFFICIENCY PROGRAMS

### § 8235. “Residential building” defined

As used in this part, the term “residential building” means any building used as a residence which is not a new building to which final standards under sections 6833(a) and 6834<sup>1</sup> of this title apply and which has a system for heating, cooling, or both.

(Pub. L. 95-619, title II, §261, as added Pub. L. 96-294, title V, §562, June 30, 1980, 94 Stat. 746.)

#### REFERENCES IN TEXT

Section 6834 of this title, referred to in text, was repealed by Pub. L. 97-35, title X, §1041(b), Aug. 13, 1981, 95 Stat. 621.

#### STATEMENT OF PURPOSE

Pub. L. 96-294, title V, §561, June 30, 1980, 94 Stat. 746, provided that: “It is the purpose of this subtitle [subtitle C (§§561-563) of title V of Pub. L. 96-294, enacting this part]—

“(1) to establish a program under which the Secretary of Energy may provide assistance to State and local governments to encourage up to four demonstration programs that make energy conservation measures available without charge to residential property owners and tenants under a plan designed to maximize the energy savings available in residential buildings in designated areas; and

“(2) to demonstrate through such program prototype residential energy efficiency plans under which State and local governments, State regulatory authorities, and public utilities may participate in a cooperative manner with public or private entities to install energy conservation measures in the greatest possible number of residential buildings within their respective jurisdictions or service areas.”

### § 8235a. Approval of plans for prototype residential energy efficiency programs and provision of financial assistance for such programs

#### (a) Plan approval

The Secretary may approve any plan developed by a State or local government, for the establishment of a prototype residential energy efficiency program, which is designed to dem-

onstrate the feasibility, economics, and energy conserving potential of such program, if an application for such plan is submitted pursuant to section 8235b of this title, the application is approved pursuant to section 8235c of this title, and the plan provides for—

(1) the entering into a contract by a public utility with one or more persons not under the control of, and not affiliates or subsidiaries of, such utility for the implementation of a program to encourage energy conservation, including the supply and installation of the energy conservation measures as specified in such contract in residential buildings located in the portion of the utility’s service area designated by the contract, which contract includes the provisions described in subsection (b) of this section;

(2) the selection by the public utility in a fair, open, and nondiscriminatory manner of the person or persons to contract with pursuant to paragraph (1);

(3) the payment by the public utility to the person or persons contracted with under paragraph (1) of a specified price for each unit of energy saved by such utility as a result of the program during the period the contract is in effect, which price is based on the value to the utility of the energy saved;

(4) the determination, by a procedure established by the State or local government developing the plan, of the amount of energy saved by a public utility as a result of the program carried out under the plan, which procedure is described in the contract;

(5) in the case of a regulated public utility, the approval in writing by the State regulatory authority exercising ratemaking authority over such utility of the contract described in paragraph (1), the manner of selection described in paragraph (2), the payment described in paragraph (3), and the procedure described in paragraph (4); and

(6) the enforcement of the provisions of the contract, entered into pursuant to paragraph (1), which are required to be included pursuant to subsection (b) of this section.

#### (b) Contract requirements

Any contract entered into by a public utility under subsection (a)(1) of this section shall require any person or persons entering into such contract with a public utility to offer to the owner or occupant of each residential building in the portion of the utility’s service area designated in the contract, without charge—

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

(A) the energy conservation measures which will be supplied and installed in such residential building pursuant to paragraph (2);

(B) the savings in energy costs that are likely to result from the installation of such energy conservation measures;

(C) suggestions (including suggestions developed by the Secretary) of energy conservation techniques, including adjustments in energy use patterns and modifications in household activities, which can be used by the owner or occupant of the building to

<sup>1</sup> See References in Text note below.

save energy and which do not require the installation of energy conservation measures; and

(D) the savings in energy costs that are likely to result from the adoption of such suggested energy conservation techniques;

(2) the supply and installation, with the approval of the owner of the residential building, in such building in a timely manner of the energy conservation measures which are as specified in the contract and which the owner or occupant was informed (pursuant to the inspection under paragraph (1)) would be supplied and installed in such building; and

(3) a written warranty that at a minimum any defect in materials, manufacture, design, or installation of any energy conservation measures supplied and installed pursuant to paragraph (2), found not later than one year after the date of installation, will be remedied without charge and within a reasonable period of time.

**(c) Provision of financial assistance**

The Secretary may provide financial assistance to any State or local government to carry out any plan for the establishment of a prototype residential energy efficiency program if the plan is approved under subsection (a) of this section.

**(d) Limitation**

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

(Pub. L. 95-619, title II, §262, as added Pub. L. 96-294, title V, §562, June 30, 1980, 94 Stat. 746.)

**§ 8235b. Applications for approval of plans for prototype residential energy efficiency programs**

Each application for the approval of a plan under section 8235a(a) of this title for the establishment of a prototype residential energy efficiency program shall be submitted by a State or local government and shall include, at least—

(1) a description of the plan, including the provisions of the plan specified in section 8235a(a) of this title and a description of the portion of the service area of the public utility proposing to enter into a contract under section 8235a(a)(1) of this title which is designated under the contract;

(2) a description of the manner in which the provisions of the plan specified in section 8235a(a) of this title are to be met;

(3) a description of the contract to be entered into pursuant to section 8235a(a)(1) of this title and the manner in which the requirements of the contract contained in section 8235a(b) of this title are to be met;

(4) the record of the public hearing conducted pursuant to section 8235c(a)(2) of this title; and

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

(Pub. L. 95-619, title II, §263, as added Pub. L. 96-294, title V, §562, June 30, 1980, 94 Stat. 748.)

**§ 8235c. Approval of applications for plans for prototype residential energy efficiency programs**

**(a) Approval requirements**

The Secretary may approve an application submitted under section 8235b of this title for a plan establishing a prototype residential energy efficiency program only if—

(1) the application is approved in writing—

(A) by the public utility which is to enter into the contract under the plan;

(B) by the State regulatory authority having ratemaking authority over such public utility, in the case of a regulated utility; and

(C) by the Governor (or any State agency specifically authorized under State law to approve such plans) of the State whose government is submitting the application (if the application is submitted by a State government) or of the State in which the local government is located (if the application is submitted by a local government); and

(2) the application has been published, a public hearing on the application has been conducted, after notice to the public, at which representatives of the public utility which is to enter into the contract under the plan, persons engaged in the supply or installation of residential energy conservation measures, and members of the public (including ratepayers of such public utility and other interested individuals) had an opportunity to provide comment on the application, and any amendments to the application, which may be made to take into account the proceedings of the hearing, are made.

**(b) Factors in approving applications**

The Secretary shall take into consideration in approving an application under subsection (a) of this section for a plan establishing a prototype residential energy efficiency program—

(1) the potential for energy savings from the demonstration of the program;

(2) the likelihood that the value of the energy saved by public utilities under the program will be sufficient to cover the estimated cost of the energy conservation measures to be supplied and installed under the program;

(3) the anticipated effects of the program on competition in the portion of the service area of the public utility designated in the contract entered into under the plan; and

(4) such other factors as the Secretary determines are appropriate.

(Pub. L. 95-619, title II, §264, as added Pub. L. 96-294, title V, §562, June 30, 1980, 94 Stat. 748.)

**§ 8235d. Rules and regulations**

**(a) Proposed rules and regulations**

The Secretary shall issue proposed rules and regulations to carry out this part not later than 120 days after June 30, 1980.

**(b) Final rules and regulations**

The Secretary shall issue final rules and regulations to carry out this part not later than 90 days after the issuance of proposed rules and regulations under subsection (a) of this section.