

“(1) One-half of the amount of such savings may be used for the acquisition of energy conserving measures for military installations, and such measures may be in addition to any such energy conserving measures acquired for military installations under contracts entered into under title VIII of the National Energy Conservation Policy Act.

“(2) One-half of the amount of such savings may be used for any morale, welfare, or recreation facility or service that is normally provided with appropriated funds, or for any minor military construction project (as defined in section 2805(a) of title 10, United States Code), that will enhance the quality of life of members of the Armed Forces at the military installation at which the energy cost savings were realized.

“(c) DETERMINATION OF AMOUNT OF SAVINGS.—Not more than 90 days after the end of each of the first five years during which energy savings measures have been in operation under a contract entered into by the Secretary of a military department under title VIII of the National Energy Conservation Policy Act, the Secretary of the military department concerned shall determine the amount of energy cost savings realized by the United States under the terms of the contract during that year by reason of the energy savings measures acquired and installed at that installation pursuant to that contract.”

#### § 8287a. Payment of costs

Any amount paid by a Federal agency pursuant to any contract entered into under this subchapter may be paid only from funds appropriated or otherwise made available to the agency for fiscal year 1986 or any fiscal year thereafter for the payment of energy, water, or wastewater treatment expenses (and related operation and maintenance expenses).

(Pub. L. 95-619, title VIII, § 802, as added Pub. L. 99-272, title VII, § 7201(a), Apr. 7, 1986, 100 Stat. 142; amended Pub. L. 108-375, div. A, title X, § 1090(b), Oct. 28, 2004, 118 Stat. 2067.)

#### AMENDMENTS

2004—Pub. L. 108-375 inserted “, water, or wastewater treatment” after “payment of energy”.

#### § 8287b. Reports

Each Federal agency shall periodically furnish the Secretary of Energy with full and complete information on its activities under this subchapter, and the Secretary shall include in the report submitted to Congress under section 8260<sup>1</sup> of this title a description of the progress made by each Federal agency in—

- (1) including the authority provided by this subchapter in its contracting practices; and
- (2) achieving energy savings under contracts entered into under this subchapter.

(Pub. L. 95-619, title VIII, § 803, as added Pub. L. 99-272, title VII, § 7201(a), Apr. 7, 1986, 100 Stat. 142.)

#### REFERENCES IN TEXT

Section 8260 of this title, referred to in text, was omitted in the general revision of part B (§ 8251 et seq.) of subchapter III of this chapter by Pub. L. 100-615, § 2(a), Nov. 5, 1988, 102 Stat. 3185.

#### § 8287c. Definitions

For purposes of this subchapter, the following definitions apply:

(1) The term “Federal agency” means each authority of the Government of the United States, whether or not it is within or subject to review by another agency.

(2) The term “energy savings” means—

(A) a reduction in the cost of energy, water, or wastewater treatment, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of—

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

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

(iii) the increased efficient use of existing water sources in either interior or exterior applications;

(B) the increased efficient use of an existing energy source by cogeneration or heat recovery;

(C) if otherwise authorized by Federal or State law (including regulations), the sale or transfer of electrical or thermal energy generated on-site from renewable energy sources or cogeneration, but in excess of Federal needs, to utilities or non-Federal energy users; and

(D) the increased efficient use of existing water sources in interior or exterior applications.

(3) The terms “energy savings contract” and “energy savings performance contract” mean a contract that provides for the performance of services for the design, acquisition, installation, testing, and, where appropriate, operation, maintenance, and repair, of an identified energy or water conservation measure or series of measures at 1 or more locations. Such contracts shall, with respect to an agency facility that is a public building (as such term is defined in section 3301 of title 40), be in compliance with the prospectus requirements and procedures of section 3307 of title 40.

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

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

(B) a water conservation measure that improves the efficiency of water use, is life-cycle cost-effective, and involves water conservation, water recycling or reuse, more efficient treatment of wastewater or stormwater, improvements in operation or maintenance efficiencies, retrofit activities, or other related activities, not at a Federal hydroelectric facility.

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

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

AMENDMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 2007 AMENDMENT

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

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

The Secretary in fiscal year 1999 and thereafter, shall continue the process begun in fiscal year 1998 of accepting funds from other Federal agencies in return for assisting agencies in achieving energy efficiency in Federal facilities and operations by the use of privately financed, energy savings performance contracts and other private financing mechanisms. The funds may be provided after agencies begin to realize energy cost savings; may be retained by the Secretary until expended; and may be used only for

the purpose of assisting Federal agencies in achieving greater efficiency, water conservation and use of renewable energy by means of privately financed mechanisms, including energy savings performance contracts and utility incentive programs. These recovered funds will continue to be used to administer even greater energy efficiency, water conservation and use of renewable energy by means of privately financed mechanisms such as utility efficiency service contracts and energy savings performance contracts. The recoverable funds will be used for all necessary program expenses, including contractor support and resources needed, to achieve overall Federal energy management program objectives for greater energy savings. Any such privately financed contracts shall meet the provisions of the Energy Policy Act of 1992, Public Law 102-486 regarding energy savings performance contracts and utility incentive programs.

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

REFERENCES IN TEXT

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

CODIFICATION

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

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation act:

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

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

SUBCHAPTER I—GENERAL PROVISIONS

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

SUBCHAPTER II—NEW FACILITIES

PART A—PROHIBITIONS

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

PART B—EXEMPTIONS

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

SUBCHAPTER III—EXISTING FACILITIES

PART A—PROHIBITIONS

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

PART B—EXEMPTIONS

- 8351. Temporary exemptions.