

ing. The Secretary 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.

(Pub. L. 94-385, title IV, §418, Aug. 14, 1976, 90 Stat. 1157; Pub. L. 96-294, title V, §577(2), June 30, 1980, 94 Stat. 760.)

#### AMENDMENTS

1980—Subsec. (a). Pub. L. 96-294 substituted “Secretary” for “Administrator” wherever appearing.

#### § 6869. Judicial review of final action by Secretary on application

##### (a) Time for appeal; jurisdiction; filing of administrative record by Secretary

If any applicant is dissatisfied with the Secretary’s final action with respect to the application submitted by it under section 6864 of this title or with a final action under section 6868 of this title, 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.

##### (b) Conclusiveness of findings of Secretary; remand; modified findings by Secretary; certification of record

The findings of fact by the Secretary, 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) Power of court to affirm or set aside action of Secretary; appeal to Supreme Court

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.

(Pub. L. 94-385, title IV, §419, Aug. 14, 1976, 90 Stat. 1157; Pub. L. 96-294, title V, §577(2), (3), June 30, 1980, 94 Stat. 760.)

#### AMENDMENTS

1980—Subsecs. (a) to (c). Pub. L. 96-294 substituted “Secretary” for “Administrator” wherever appearing, and “Secretary’s” for “Administrator’s”.

#### § 6870. Prohibition against discrimination; notification to funded project of violation; penalties for failure to comply

(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 [42 U.S.C. 2000d et seq.] and any other applicable Federal nondiscrimination law; or

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

(Pub. L. 94-385, title IV, §420, Aug. 14, 1976, 90 Stat. 1158; Pub. L. 96-294, title V, §577(2), June 30, 1980, 94 Stat. 760.)

#### REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (b)(2), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

#### AMENDMENTS

1980—Subsec. (b). Pub. L. 96-294 substituted “Secretary” for “Administrator” wherever appearing.

#### § 6871. Annual report by Secretary and Director to President and Congress on weatherization program

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 6866 of this title. Such report shall include information and data furnished by each State on the average costs incurred in weatherization of indi-

vidual dwelling units, the average size of the dwellings being weatherized, and the average income of households receiving assistance under this part.

(Pub. L. 94-385, title IV, §421, Aug. 14, 1976, 90 Stat. 1158; Pub. L. 96-294, title V, §577(2), June 30, 1980, 94 Stat. 760; Pub. L. 101-440, §7(h), Oct. 18, 1990, 104 Stat. 1014.)

#### AMENDMENTS

1990—Pub. L. 101-440 struck out “through 1979” after “and annually thereafter” and inserted at end “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.”

1980—Pub. L. 96-294 substituted “Secretary” for “Administrator”.

#### § 6872. Authorization of appropriations

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.<sup>1</sup>

(Pub. L. 94-385, title IV, §422, Aug. 14, 1976, 90 Stat. 1158; Pub. L. 95-619, title II, §231(d), Nov. 9, 1978, 92 Stat. 3226; Pub. L. 96-294, title V, §576, June 30, 1980, 94 Stat. 760; Pub. L. 98-181, title I [title IV, §464], Nov. 30, 1983, 97 Stat. 1235; Pub. L. 101-440, §8(c), Oct. 18, 1990, 104 Stat. 1016; Pub. L. 105-388, §3, Nov. 13, 1998, 112 Stat. 3477; Pub. L. 109-58, title I, §122(a), Aug. 8, 2005, 119 Stat. 616; Pub. L. 110-140, title IV, §411(a), Dec. 19, 2007, 121 Stat. 1600.)

#### AMENDMENTS

2007—Pub. L. 110-140 substituted “appropriated—” and pars. (1) to (5) for “appropriated \$500,000,000 for fiscal year 2006, \$600,000,000 for fiscal year 2007, and \$700,000,000 for fiscal year 2008”.

2005—Pub. L. 109-58 substituted “\$500,000,000 for fiscal year 2006, \$600,000,000 for fiscal year 2007, and \$700,000,000 for fiscal year 2008” for “for fiscal years 1999 through 2003 such sums as may be necessary”.

1998—Pub. L. 105-388 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows:

“(a) There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, other than under subsections (d) and (e) of section 6865 of this title, not to exceed \$200,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992, 1993, and 1994.

“(b) There are authorized to be appropriated for purposes of carrying out the weatherization program under subsections (d) and (e) of section 6865 of this title, not to exceed \$20,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994.”

1990—Pub. L. 101-440 amended section generally. Prior to amendment, section read as follows: “Of the funds authorized by section 1005(1) of the Omnibus Budget Reconciliation Act of 1981 for energy conservation for fiscal year 1984, not less than \$190,000,000 is authorized to be appropriated to carry out the weatherization program under this part. There is authorized to be appropriated such sums as may be necessary for fiscal year 1985 to carry out such weatherization program. Any

amount appropriated under this section shall remain available until expended.”

1983—Pub. L. 98-181 amended section generally, providing that, of the funds authorized by section 1005(1) of the Omnibus Budget Reconciliation Act of 1981 for energy conservation for fiscal year 1984, not less than \$190,000,000 was authorized to be appropriated to carry out the weatherization program under this part, and substituted provisions authorizing the appropriation of such sums as may be necessary for fiscal year 1985 to carry out the weatherization program for provisions that had authorized the appropriations of \$55,000,000 for the fiscal year ending on Sept. 30, 1977, \$130,000,000 for the fiscal year ending on Sept. 30, 1978, \$200,000,000 for the fiscal year ending on Sept. 30, 1979, \$200,000,000 for the fiscal year ending on Sept. 30, 1980, and \$200,000,000 for the fiscal year ending on Sept. 30, 1981.

1980—Pub. L. 96-294 inserted provisions authorizing to be appropriated \$200,000,000 for fiscal year ending on Sept. 30, 1981, such sums to remain available until expended, substituted “the sum of” for “not to exceed” wherever appearing.

1978—Pub. L. 95-619 substituted an appropriations authorization of not to exceed \$130,000,000 for fiscal year ending Sept. 30, 1978, for an authorization of not to exceed \$65,000,000 for such fiscal year, substituted an authorization of not to exceed \$200,000,000 for fiscal year ending Sept. 30, 1979, for an authorization of \$80,000,000 for such fiscal year, and added an authorization of not to exceed \$200,000,000 for fiscal year ending Sept. 30, 1980.

#### 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.

#### SUSTAINABLE ENERGY RESOURCES FOR CONSUMERS GRANTS

Pub. L. 110-140, title IV, §411(b), Dec. 19, 2007, 121 Stat. 1600, provided that:

“(1) IN GENERAL.—The Secretary [of Energy] may make funding available to local weatherization agencies from amounts authorized under the amendment made by subsection (a) [amending this section] to expand the weatherization assistance program for residential buildings to include materials, benefits, and renewable and domestic energy technologies not covered by the program (as of the date of enactment of this Act [Dec. 19, 2007]), if the State weatherization grantee certifies that the applicant has the capacity to carry out the proposed activities and that the grantee will include the project in the financial oversight of the grantee of the weatherization assistance program.

“(2) PRIORITY.—In selecting grant recipients under this subsection, the Secretary shall give priority to—

“(A) the expected effectiveness and benefits of the proposed project to low- and moderate-income energy consumers;

“(B) the potential for replication of successful results;

“(C) the impact on the health and safety and energy costs of consumers served; and

“(D) the extent of partnerships with other public and private entities that contribute to the resources and implementation of the program, including financial partnerships.

“(3) FUNDING.—

“(A) IN GENERAL.—Except as provided in paragraph (2), the amount of funds used for projects described in paragraph (1) may equal up to 2 percent of the amount of funds made available for any fiscal year under section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872).

“(B) EXCEPTION.—No funds may be used for sustainable energy resources for consumers grants for a fiscal year under this subsection if the amount of funds made available for the fiscal year to carry out the

<sup>1</sup> So in original.