

result of (i) modification of maintenance and operating procedures in a building, or (ii) the acquisition and installation of one or more specified energy conservation measures in such building, or (iii) both, and

(B) the planning or administration of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in such building.

(18) The term “technical assistance costs” means costs incurred for the use of existing personnel or the temporary employment of other qualified personnel (or both such types of personnel) necessary for providing technical assistance.

(19) The term “energy conservation maintenance and operating procedure” means modification or modifications in the maintenance and operations of a building, and any installations therein, which are designed to reduce energy consumption in such building and which require no significant expenditure of funds.

(20) The term “Secretary” means the Secretary of Energy or his designee.

(21) The term “Governor” means the chief executive officer of a State or his designee.

(Pub. L. 94-163, title III, §391, as added Pub. L. 95-619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3239; amended Pub. L. 98-454, title VI, §601(e), Oct. 5, 1984, 98 Stat. 1736; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 101-440, §6(b), Oct. 18, 1990, 104 Stat. 1011; Pub. L. 105-388, §5(a)(9), Nov. 13, 1998, 112 Stat. 3478.)

#### AMENDMENTS

1998—Par. (2)(B). Pub. L. 105-388 substituted a semicolon for period at end.

1990—Par. (1). Pub. L. 101-440, §6(b)(1), substituted “May 1, 1989” for “April 20, 1977”.

Par. (2). Pub. L. 101-440, §6(b)(2), (3), in introductory provision substituted “maintain or reduce energy consumption and reduce energy costs” for “reduce energy consumption” and in subpar. (C) inserted “and load management systems” after “systems”.

Par. (8). Pub. L. 101-440, §6(b)(4), inserted “administrative facilities,” after “dormitories.”

Par. (17)(A). Pub. L. 101-440, §6(b)(5), substituted “or energy cost savings” for “and related cost savings”.

1986—Par. (5)(B). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1984—Par. (9). Pub. L. 98-454 which directed the amendment of subsec. (a) by inserting reference to the Northern Mariana Islands was executed to par. (9) of this section to reflect the probable intent of Congress, because this section does not contain a subsec. (a).

#### SEPARABILITY

Pub. L. 95-619, title III, §302(c), Nov. 9, 1978, 92 Stat. 3248, provided that: “If any provision of this title [enacting sections 6371 to 6371j and section 6372 to 6372i of this title, amending sections 300k-2 and 300n-1 of this title, and enacting provisions set out as notes under this section and section 6372 of this title] or the application thereof to any person or circumstances be held invalid, the provisions of other sections of this title and their application to other persons or circumstances shall not be affected thereby.”

#### CONGRESSIONAL STATEMENT OF FINDINGS AND PURPOSES

Pub. L. 95-619, title III, §301, Nov. 9, 1978, 92 Stat. 3238, provided:

“(a) FINDINGS.—The Congress finds that—

“(1) the Nation’s nonrenewable energy resources are being rapidly depleted;

“(2) schools and hospitals are major consumers of energy, and have been especially burdened by rising energy prices and fuel shortages;

“(3) substantial energy conservation can be achieved in schools and hospitals through the implementation of energy conservation maintenance and operating procedures and the installation of energy conservation measures; and

“(4) public and nonprofit schools and hospitals in many instances need financial assistance in order to make the necessary improvements to achieve energy conservation.

“(b) PURPOSE.—It is the purpose of this part [part 1 (§§301-303) of title III of Pub. L. 95-619, enacting sections 6371 to 6371i of this title, amending sections 300k-2 and 300n-1 of this title, and enacting provisions set out as notes under this section] to authorize grants to States and to public and nonprofit schools and hospitals to assist them in identifying and implementing energy conservation maintenance and operating procedures and in evaluating, acquiring, and installing energy conservation measures to reduce the energy use and anticipated energy costs of schools and hospitals.”

#### § 6371a. Guidelines

##### (a) Energy audits

The Secretary shall, by rule, not later than 60 days after November 9, 1978—

(1) prescribe guidelines for the conduct of preliminary energy audits, including a description of the type, number, and distribution of preliminary energy audits of school and hospital facilities that will provide a reasonably accurate evaluation of the energy conservation needs of all such facilities in each State, and

(2) prescribe guidelines for the conduct of energy audits.

##### (b) State plans for implementation of energy conservation projects in schools and hospitals

The Secretary shall, by rule, not later than 90 days after November 9, 1978, prescribe guidelines for State plans for the implementation of energy conservation projects in schools and hospitals. The guidelines shall include—

(1) a description of the factors which the State energy agency may consider in determining which energy conservation projects will be given priority in making grants pursuant to this part, including such factors as cost, energy consumption, energy savings, and energy conservation goals,

(2) a description of the suggested criteria to be used in establishing a State program to identify persons qualified to implement energy conservation projects, and

(3) a description of the types of energy conservation measures deemed appropriate for each region of the Nation.

##### (c) Revisions

Guidelines prescribed under this section may be revised from time to time after notice and opportunity for comment.

##### (d) Determination of severe hardship class for schools and hospitals

The Secretary shall, by rule prescribe criteria for determining schools and hospitals which are in a class of severe hardship. Such criteria shall

take into account climate, fuel costs, fuel availability, ability to provide the non-Federal share of the costs, and such other factors that he deems appropriate.

(Pub. L. 94-163, title III, §392, as added Pub. L. 95-619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3242.)

**§ 6371b. Preliminary energy audits and energy audits**

**(a) Application by Governor**

The Governor of any State may apply to the Secretary at such time as the Secretary may specify after promulgation of guidelines under section 6371a(a) of this title for grants to conduct preliminary energy audits and energy audits of school facilities and hospital facilities in such State under this part.

**(b) Grants for conduct of preliminary energy audits**

Upon application under subsection (a) the Secretary may make grants to States for purposes of conducting preliminary energy audits of school facilities and hospital facilities under this part in accordance with the guidelines prescribed under section 6371a(a)(1) of this title. If a State does not conduct preliminary energy audits within two years after November 9, 1978, the Secretary may conduct such audits within such State.

**(c) Grants for conduct of energy audits**

Upon application under subsection (a) the Secretary may make grants to States for purposes of conducting energy audits of school facilities and hospital facilities under this part in accordance with the guidelines prescribed under section 6371a(a)(2) of this title.

**(d) Audits conducted prior to grant of financial assistance**

If a State without the use of financial assistance under this section, conducts preliminary energy audits or energy audits which comply with the guidelines prescribed by the Secretary or which are approved by the Secretary the funds allocated for purposes of this section shall be added to the funds available for energy conservation projects for such State and shall be in addition to amounts otherwise available for such purposes.

**(e) Restriction on use of funds; grant covering total cost of energy audits**

(1) Except as provided in paragraph (2), amounts made available under this section (together with any other amounts made available from other Federal sources) may not be used to pay more than 50 percent of the costs of any preliminary energy audit or any energy audit.

(2) Upon the request of the Governor, the Secretary may make grants to a State for up to 100 percent of the costs of any preliminary energy audits and energy audits, subject to the requirements of section 6371g(a)(3) of this title.

(Pub. L. 94-163, title III, §393, as added Pub. L. 95-619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3242.)

**§ 6371c. State plans**

**(a) Invitation to State energy agency to submit plan; contents**

The Secretary shall invite the State energy agency of each State to submit, within 90 days after the effective date of the guidelines prescribed pursuant to section 6371a of this title, or such longer period as the Secretary may, for good cause, allow, a State plan under this section for such State. Such plan shall include—

(1) the results of preliminary energy audits conducted in accordance with the guidelines prescribed under section 6371a(a)(1) of this title, and an estimate of the energy savings that may result from the modification of maintenance and operating procedures and installation of energy conservation measures in the schools and hospitals in such State;

(2) a recommendation as to the types of energy conservation projects considered appropriate for schools and hospitals in such State, together with an estimate of the costs of carrying out such projects in each year for which funds are appropriated;

(3) a program for identifying persons qualified to carry out energy conservation projects;

(4) procedures to insure that funds will be allocated among eligible applicants for energy conservation projects within such State, including procedures—

(A) to insure that funds will be allocated on the basis of relative need taking into account such factors as cost, energy consumption and energy savings, and

(B) to insure that equitable consideration is given to all eligible public or nonprofit institutions regardless of size and type of ownership;

(5) a statement of the extent to which, and by which methods, such State will encourage utilization of solar space heating, cooling, and electric systems and solar water heating systems where appropriate;

(6) procedures to assure that all assistance under this part in such State will be expended in compliance with the requirements of an approved State plan for such State, and in compliance with the requirements of this part;

(7) procedures to insure implementation of energy conserving maintenance and operating procedures in those facilities for which projects are proposed; and

(8) policies and procedures designed to assure that financial assistance provided under this part in such State will be used to supplement, and not to supplant, State, local, or other funds.

**(b) Approval of plans**

The Secretary shall review and approve or disapprove each State plan not later than 60 days after receipt by the Secretary. If such plan meets the requirements of subsection (a), the Secretary shall approve the plan. If a State plan submitted within the 90-day period specified in subsection (a) has not been disapproved within the 60-day period following its receipt by the Secretary, such plan shall be treated as approved by the Secretary. A State energy agency may submit a new or amended plan at any time